

ORIGINAL

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 MARASH VUCINAJ,

5 PLAINTIFF,

6 -against- Case No:
7 18-CV-7006

8 NEW YORK CITY POLICE DEPARTMENT (NYPD) and CITY
9 OF NEW YORK,

10 DEFENDANTS.
11 -----X

12
13
14 DATE: July 1, 2019

15 TIME: 9:45 a.m.

16

17

18 DEPOSITION of the Plaintiff, MARASH

19 VUCINAJ, taken by the Defendants, pursuant to a Notice and

20 to the Federal Rules of Civil Procedure, held at the

21 offices of the New York City Law Department, 100 Church

22 Street, New York, New York 10007, before Joanne Capparelli,

23 a Notary Public of the State of New York.

24

25

1 A P P E A R A N C E S:

2

3 WHITE, HILFERTY & ALBANESE, LLP
4 Attorneys for the Plaintiff
5 MARASH VUCINAJ
6 570 Lexington Avenue, 16th Floor
7 New York, New York 10022
8 BY: CHRISTOPHER ALBANESE, ESQ.

7

8 ZACHARY W. CARTER, ESQ.
9 CORPORATION COUNSEL
10 NEW YORK CITY LAW DEPARTMENT
11 Attorneys for the Defendants
12 NEW YORK CITY POLICE DEPARTMENT (NYPD) and
13 CITY OF NEW YORK
14 100 Church Street
15 New York, New York 10007
16 BY: AMANDA BLAIR, ESQ.
17 File #: 2018-075069
18 Control #: 19-2207

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1 F E D E R A L S T I P U L A T I O N S

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4 IT IS HEREBY STIPULATED AND AGREED by and between
5 the counsel for the respective parties herein that the
6 sealing, filing and certification of the within deposition
7 be waived; that the original of the deposition may be
8 signed and sworn to by the witness before anyone authorized
9 to administer an oath, with the same effect as if signed
10 before a Judge of the Court; that an unsigned copy of the
11 deposition may be used with the same force and effect as if
12 signed by the witness, 30 days after service of the
13 original & 1 copy of same upon counsel for the witness.

14

15 IT IS FURTHER STIPULATED AND AGREED that all
16 objections except as to form, are reserved to the time of
17 trial.

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24

25

M. VUCINAJ

1 M A R A S H V U C I N A J, called as a witness, having
2 been first duly sworn by a Notary Public of the State of
3 New York, was examined and testified as follows:

4 EXAMINATION BY

5 MS. BLAIR:

6 Q. Please state your name for the record.

7 A. Marash Vucinaj.

8 Q. What is your address?

9 A. 86-48 110th Street, Richmond Hill, New York
10 11418.

11 Q. My name is Amanda Blair and I represent the
12 defendants in this case. First I will go through some
13 basic rules for this deposition. You've been placed under
14 oath by the court reporter. This is the same oath you
15 would take if you were testifying before a judge and jury.
16 You have to answer my questions as truthfully and
17 accurately as you can.

18 Do you understand?

19 A. Yes.

20 Q. Please do not speak when I'm speaking and I will
21 do the same. Make sure any silent actions, such as a nod
22 head or shake, is followed by a verbal response.

23 Do you understand?

24 A. Yes.

25 Q. It's important that you understand my questions

M. VUCINAJ

1 and that you give accurate answers. If I ask a question
2 you do not understand, let me know and I will explain or
3 rephrase it. If you do not know the answer to a question
4 or not sure of your answer, tell me; otherwise, I will
5 assume you understood the question and gave me a complete
6 and truthful answer.

7 Do you understand?

8 A. Yes.

9 Q. If you need to take a break during this
10 deposition, let me know; however, if there is a question
11 pending, you must answer the question.

12 Do you understand?

13 A. Yes.

14 Q. Is there any condition, either mental, medical or
15 physical, that would impair your ability to understand my
16 questions at this time?

17 A. Not that I am aware of.

18 Q. Have you consumed any alcoholic beverages within
19 the last 24 hours?

20 A. No.

21 Q. Have you taken prescription or medicine that
22 would impact your ability to answer these questions today?

23 A. No.

24 Q. Have you taken any controlled substances within
25 the last 24 hours?

M. VUCINAJ

1 A. No.

2 Q. Is there any other reason you can think of as to
3 why you would not be able to understand and answer my
4 questions truthfully today?

5 A. No.

6 Q. Did you review any documents in preparation for
7 this deposition?

8 A. No.

9 Q. Other than with your attorney, did you discuss
10 the fact that you were appearing for a deposition with
11 anyone?

12 A. Yes.

13 Q. Who did you discuss?

14 A. I called where I am assigned to at the moment and
15 I told the sergeant that's working there that I'll be at a
16 deposition today.

17 Q. Anyone else?

18 A. Maybe a couple of family members.

19 Q. What did you discuss?

20 A. That I have a deposition.

21 MR. ALBANESE: Obviously, she's mentioned
22 our discussions are attorney/client privilege.

23 Q. Have you ever been a plaintiff or defendant in a
24 lawsuit before?

25 A. No.

M. VUCINAJ

1 Q. Have you ever testified before?

2 A. Yes.

3 Q. In what capacity?

4 A. As a captain of the NYPD, New York City Police
5 Department.

6 Q. What kind of cases were those?

7 A. One case specifically. One and only case that I
8 recall was for a lawsuit against the City involving a
9 departmental vehicle accident or collision.

10 Q. Why were you testifying?

11 A. Because I was the supervisor that did the report
12 for the accident.

13 Q. What was the disposition of that case?

14 A. I'm not aware of the disposition.

15 Q. Have you ever entered into an agreement with the
16 City of New York where it received a release from you? Do
17 you know what a release is?

18 A. No. I don't understand.

19 Q. A release is a legal document in which you would
20 give up claims, if you have any. For example, if you're
21 suing the City and in exchange for compensation or
22 consideration, you released all your claims against the
23 City?

24 A. No, because I never had a lawsuit against the
25 City.

M. VUCINAJ

1 Q. Has any member of your family ever sued the City
2 or a City agency?

3 A. No.

4 Q. Have you ever been convicted of a crime?

5 A. No.

6 Q. Do you have any names besides the ones you used
7 today?

8 A. I have a nickname.

9 Q. What is your nickname?

10 A. Mike.

11 Q. Any other names?

12 A. No.

13 Q. What is your Social Security number? We can
14 redact except for the final four.

15 A. XXX-XX-0593.

16 Q. Have you ever had any other Social Security
17 number?

18 A. No.

19 Q. How long have you lived at your present address?

20 A. Approximately, I believe, in December it will be
21 28 years.

22 Q. Do you live there alone?

23 A. No.

24 Q. Who lives there with you?

25 A. Just my mother and I.

M. VUCINAJ

- 1 Q. Are you married?
- 2 A. No.
- 3 Q. Do you have any children?
- 4 A. No.
- 5 Q. Have you ever served in the US military?
- 6 A. No.
- 7 Q. Have you ever applied for unemployment benefits?
- 8 A. No.
- 9 Q. Have you ever applied for disability benefits?
- 10 A. No.
- 11 Q. Have you ever applied for Workers' Compensation
- 12 benefits?
- 13 A. No.
- 14 Q. Have you ever applied for Welfare or public
- 15 assistance?
- 16 A. No.
- 17 Q. Do you use the internet?
- 18 A. Yes.
- 19 Q. Do you have an e-mail address?
- 20 A. Yes.
- 21 Q. What is your e-mail address?
- 22 A. mgvblue, like the color, @aol.com.
- 23 Q. Do you have any other e-mail addresses?
- 24 A. Yes.
- 25 Q. What is the other one?

M. VUCINAJ

1 A. Do I give them all?

2 Q. Yes.

3 A. A-L-P-R-E --

4 Q. A-L --

5 A. A-L-P, as in Peter, R-E-T-E@aol.com. And there's
6 another one but I haven't used it. I can't remember the
7 password.

8 MS. BLAIR: We can leave a blank in the
9 record and you can add it later if you remember.

10

11

12 Q. Do you have an NYPD e-mail?

13 A. Yes. My first name, marash.vucinaj@nypd.org.

14 Q. Do you use any social media accounts?

15 A. I have one Facebook account.

16 Q. What is the Facebook account name?

17 A. marasvuc.

18 Q. Any other social media?

19 A. No.

20 Q. Have you ever discussed this lawsuit on your
21 mgvblue e-mail account?

22 A. No.

23 Q. Your alprete@aol.com?

24 A. No.

25 Q. On your Facebook account?

M. VUCINAJ

1 A. No.

2 Q. Do you have a cell phone?

3 A. Yes.

4 Q. What is your cell phone number?

5 A. 718-200-5828.

6 Q. Have you ever discussed this lawsuit on your cell
7 phone besides with your attorney?

8 A. When you say discussed, what do you mean?

9 Q. Talked about the lawsuit, your claims, your
10 allegations, any incidents that you are alleging?

11 A. Not in that context, no.

12 Q. In what context have you talked about this
13 lawsuit on your cell phone?

14 A. I'm trying to recall exactly. Just trying to
15 think -- just to be accurate. Maybe in the sense of when I
16 was getting an attorney.

17 MR. ALBANESE: Even if you talked with other
18 attorneys about hiring them, it's still
19 privileged conversations.

20 A. No. Just in general. Nothing specific as far
21 as, at least that I can recall, as far as. I don't recall
22 anything specifically. Again, I remember when I was
23 looking for an attorney, I mentioned to a friend or two I'm
24 still --

25 Q. Did you graduate from high school?

M. VUCINAJ

1 A. Yes.

2 Q. What high school did you go to?

3 A. Franklin K. Lane.

4 Q. How do you spell the K. Lane?

5 A. F-R-A-N-K-L-I-N and K.

6 Q. Franklin K?

7 A. Yes. We used to called it Lane High School but
8 it's Franklin K. Lane High School.

9 Q. Where is the high school?

10 MR. ALBANESE: The reason she asked you to
11 spelling it is for the reporter's benefit.

12 Q. Where was that high school located?

13 A. Technically, it's located on the Brooklyn side
14 but it's located on the Brooklyn/Queens border.

15 Q. Did you go to college after high school?

16 A. Yes.

17 Q. Where did you go to college?

18 A. Baruch College.

19 Q. Did you graduate?

20 A. Yes.

21 Q. When did you graduate?

22 A. In 1992.

23 Q. Did you graduate with a degree?

24 A. Yes, I did.

25 Q. What was the degree?

M. VUCINAJ

1 A. Central organizational psychology.

2 Q. After you graduated from Baruch College where did
3 you go next?

4 A. What do you mean?

5 Q. Did you go to graduate school? Did you start
6 working?

7 A. Well, I was already working.

8 Q. Okay.

9 A. Shortly after I graduated from college, I was
10 accepted into the NYPD Police Academy which is February 28,
11 1994 approximately a year and a half after I graduated
12 college.

13 Q. During that year and a half between college and
14 NYPD what were you doing?

15 A. I was a retail manager.

16 Q. Where?

17 A. Queens Center Mall. Elmhurst, Queens.

18 Q. That was for the entire mall or a specific?

19 A. No. A specific store. Clothing store.

20 Q. Did you resign from that position when you were
21 hired by the NYPD?

22 A. Yes.

23 Q. Why did you apply to be a police officer?

24 A. This is what I wanted to do. I took -- I took
25 the test, I believe, when I was 16 and a half, 17.

M. VUCINAJ

1 Freshman in college.

2 Q. What was the application process like back then?

3 A. You applied for a test, from what I can recall.

4 This is when I was about 16 years old. You are literally
5 talking about 30 years. You applied for police officers
6 exam. You take the exam.

7 Q. Did you take it when were you 16?

8 A. I believe I was 16 and a half, 17. I'm not a
9 hundred percent sure on the age but I know I was very young
10 because I believe that's the youngest age you can take a
11 civil service exam. I took that test. I got my results and
12 shortly afterwards, when I believe I was 18 I got called in
13 for the medical, psychological.

14 Q. Once you were hired by the NYPD did you go
15 through any training?

16 A. Six months in the NYPD academy. I believe the
17 address is 230 East 20th Street because there's a new one.

18 Q. Where were you assigned after the Police Academy?

19 A. I was assigned to the 112 precinct.

20 Q. What was your title?

21 A. At the time the technical title would be
22 probationary police officer.

23 Q. How long were you on probation?

24 A. Like everyone else, two years. The norm.

25 Q. After you were off probation, what was your

M. VUCINAJ

1 title?

2 A. Police officer.

3 Q. Did you remain at the 112 precinct throughout
4 your probation?

5 A. Yes.

6 Q. After the first two years of your service did you
7 remain at the 112 precinct?

8 A. Yes.

9 Q. How long were you at the 112?

10 A. I was assigned there until end of August. That's
11 when I graduated, 1994. So just around beginning of
12 September until May 2000.

13 Q. Where did you go in May 2000?

14 A. I went to the 43 precinct.

15 Q. What was your job title?

16 A. Sergeant. That's when I was promoted.

17 Q. Did you take a test to be promoted?

18 A. Yes.

19 Q. Did you ask to go to the 43 precinct?

20 A. No.

21 Q. You were assigned there?

22 A. Correct.

23 Q. How long were you at the 43 precinct?

24 A. I was there until November of 2003.

25 Q. Where did you go in November 2003?

M. VUCINAJ

- 1 A. November 2003 I went to the 115 precinct.
- 2 Q. What was your job title?
- 3 A. Lieutenant.
- 4 Q. Did you take a test to become a lieutenant?
- 5 A. Yes.
- 6 Q. Did you ask to be assigned to the 115 precinct?
- 7 A. No.
- 8 Q. You were assigned there?
- 9 A. Correct. As a result of promotion.
- 10 Q. How long were you at the 115 precinct?
- 11 A. I believe I was there less than two months.
- 12 Q. Where did you go after the 115 precinct?
- 13 A. School safety task force for Bronx and Manhattan.
- 14 Q. What was your job title?
- 15 A. I was still a lieutenant but I was the operations
- 16 lieutenant.
- 17 Q. Why did you transfer from the 115 to School
- 18 Safety Task Force?
- 19 A. Because they asked me to.
- 20 Q. What does that mean?
- 21 A. I believe I was in the rank of sergeant and I was
- 22 called in and interviewed for the position of lieutenant
- 23 because they were aware of me getting promoted. I was in
- 24 the first group for the lieutenant's list. And I was
- 25 recommended by the director of school safety division to

M. VUCINAJ

1 get that position and they called me, unbeknownst to me. I
2 wasn't aware of it. I didn't apply for it. I interviewed
3 with the chief back then, I don't recall his name, as well
4 as the director of the school safety division and shortly
5 after I was assigned to the 115. I was transferred over to
6 the school safety division as a result of the work I did in
7 the 43 precinct.

8 Q. Were you happy with the transfer to the School
9 Safety Traffic Force?

10 A. I was indifferent, I guess. There was nothing to
11 be happy about.

12 Q. Did you want to be transferred to the School
13 Safety Task Force?

14 A. I didn't mind it but that wasn't what I was
15 looking for at the moment but --

16 Q. This is 2003, and then how long did you stay at
17 the School Safety Traffic Force?

18 A. I believe I was there less than two months as
19 well.

20 Q. Where did you go next?

21 A. I went to the Intelligence Division, specifically
22 the overseas liaison program.

23 Q. What is the liaison program?

24 A. It was a new program that was initiated, post-911
25 where the Police department was posting uniformed members

M. VUCINAJ

1 of the service throughout different countries around the
2 world.

3 Q. What were you doing at the Intelligence Division?

4 A. Specifically as I said, I was the overseas
5 liaison program. I got assigned to Intel, which is the
6 International Police Organization where the general
7 secretary which is, in essence, the headquarters located in
8 Lyon, France.

9 Q. Did you go to France?

10 A. Three years, two months. April 14, 2004 till
11 June 12, 2007.

12 Q. How is your French?

13 A. It's been 12-plus years.

14 Q. Understood.

15 MR. ALBANESE: You can say terrible.

16 Q. What was your specific job title?

17 A. I was the criminal intelligence officer assigned
18 to the public safety and terrorism subdirector.

19 Q. Were you still a lieutenant?

20 A. Yes, I was.

21 Q. And then in 2007 where did you go next?

22 A. Just around August of 2007 I was assigned as the
23 squad commander for the Special Fraud Squad.

24 Q. Where was that located?

25 A. 300 Gold Street, I believe, fifth floor.

M. VUCINAJ

1 Q. Were you back in New York?

2 A. Yes, ma'am.

3 Q. Squad commander for the Special --

4 A. The Special Fraud Squad.

5 Q. What was your job title, you were a special
6 commander?

7 A. The squad commander. Basically, a commanding
8 officer for that specific unit.

9 Q. As a lieutenant?

10 A. Yes. Which they call a squad commander.

11 Q. How many people were in your unit?

12 A. I have would say, on average, eight. Nine. Give
13 or take.

14 Q. Who did you report to?

15 A. Initially it was then Captain Gregory Antonsen,
16 now retired inspector.

17 Q. How long were you in the Special Frauds unit?

18 A. I was there until December of 2009.
19 December 23rd.

20 Q. Where did you go next?

21 A. Then I went to the 42 precinct in January of
22 2010.

23 Q. What was your job title?

24 A. Captain. Executive officer. Captain was my
25 title or my rank and my title was executive officer.

M. VUCINAJ

1 Q. You were the only captain of that precinct?

2 A. No. Take away the "only." Captain. The
3 commanding officer was Deputy Inspector B-U-G-G-E. Timothy
4 Bugge.

5 Q. How long were you in the 42 precinct?

6 A. I believe I was there until July of 2011.

7 Q. Where did you go next?

8 A. The 40 precinct.

9 Q. Where is that located?

10 A. That's located in the South Bronx, Alexander
11 Avenue and 138th Street. Somewhere in that vicinity. I
12 forgot the exact address.

13 Q. What was your job title?

14 A. I was the Impact captain.

15 Q. How is that different the from the previous
16 captain position?

17 A. In essence was a commanding officer of newly
18 graduating recruits from the academy. And we had a
19 specific task of addressing crime within the confines of
20 the 40 precinct.

21 Q. Were there multiple captains at this precinct?

22 A. There was another captain, correct.

23 Q. What responsibilities did the other captain have?

24 A. He would be what I was in the 42 precinct, the
25 executive officer. Captain Jerry Garcia.

M. VUCINAJ

1 Q. What was the rank in the 40 precinct, the
2 leadership rank? Was he the deputy inspector? Then were
3 you and the other commanding officer the same, I guess,
4 responsibility or --

5 A. The way I understood it, you had a commanding
6 officer in the precinct, the 40 precinct. The commanding
7 officer at that time was, I believe he was already promoted
8 to deputy inspector. E-L-I-A-S N-I-K-A-S. And then in
9 number two would be the executive officer because once
10 again, this is the precinct.

11 Q. Yes.

12 A. And me as the Impact captain. I was technically
13 assigned to Patrol Borough Bronx. That's who I would
14 report to. At that time it was Inspector Kevin Harrington.

15 Q. Was the Patrol Borough Bronx located in the 40
16 precinct?

17 A. No, ma'am.

18 Q. Did you have any obligation to report to the
19 executive officer and the commanding officer in the 40
20 precinct?

21 A. We worked in unison. I would report to the
22 commanding officer due to the fact that he is the
23 commanding officer and he was a deputy inspector and still
24 is.

25 Q. But your supervisor was in the Patrol Borough

M. VUCINAJ

1 Bronx?

2 A. I guess you can say that.

3 Q. Did you get evaluations at this time?

4 A. I'm trying to recall exactly. I'm not -- I'm not
5 a hundred percent sure if I got an evaluation there in
6 that period. But in the rank of captain I believe I have a
7 total of four in my ten years as a captain.

8 Q. Who would be the first person you reported to
9 when you were at the 40 precinct?

10 A. At the 40 precinct?

11 Q. Yes.

12 A. What do you mean by who I would --

13 Q. Who would you consider your boss at the 40
14 precinct?

15 A. The commanding officer.

16 Q. And the Patrol Borough Bronx, what role did they
17 play? Did they assign you tasks, job duties? I'm trying
18 to understand the difference between the two.

19 A. It's a joint effort. It was a joint effort. So
20 if the commanding officer of the 40 precinct needed
21 assistance or had issues, we would use the resources from
22 impact. And allocate them to whatever issues, whatever
23 spike in crime. Generally we had a zone carved out within
24 the precinct. And that was my primary responsibility,
25 address crime within that zone.

M. VUCINAJ

1 Q. You reported to the commanding officer that,
2 whatever is happening within that impact zone?

3 A. I wouldn't only report to him. I would report to
4 Inspector Harrington as well.

5 Q. You started at the 40 precinct in 2011; how long
6 were you there?

7 A. I was there until January 2012.

8 Q. Where did you go next?

9 A. I was temporarily assigned to the Personnel
10 Bureau.

11 Q. Why?

12 A. I was selected as a subject matter expert to be
13 on the writing panel for Department of Civil Administrative
14 Services, DCAS. Promotional exam for the rank of captain.

15 Q. How long were you temporarily assigned?

16 A. I was there until the end of May, third week of
17 May 2012.

18 Q. How did you get this position?

19 A. Someone called me from the personnel bureau and
20 they asked if I was interested in becoming a part of the
21 process to write and prepare the promotional exam.

22 Q. You didn't know about it beforehand?

23 A. No.

24 Q. And then after your temporary assignment, where
25 did you go?

M. VUCINAJ

1 A. Then I was assigned to the 44 precinct as the
2 executive officer.

3 Q. Still at the rank of captain?

4 A. Correct.

5 Q. You are the number two in the precinct?

6 A. Correct.

7 Q. How long were you there for?

8 A. I believe I was there until the end of July 2012.

9 Q. Where did you go after that?

10 A. Then I was assigned to Incident Response Team,
11 what's called IRT.

12 Q. In service --

13 A. Incident Response Team Patrol Borough Bronx.
14 Once again, I'm assigned under the Patrol Borough Bronx.
15 Then I was a commanding officer for that unit. Again,
16 fairly new. It was very similar to the impact in the 40
17 precinct with the exception that we weren't located within
18 a precinct, we were located over at the Bronx Task Force
19 and we basically were allocated to different commands
20 within the confines of the Patrol Borough Bronx depending
21 where, you know, help was needed.

22 Q. So you were the only commanding officer of that
23 unit?

24 A. I was the only executive.

25 Q. How many people did you supervise?

M. VUCINAJ

1 A. I would say and this is an approximation, about
2 50, 60 people maybe.

3 Q. And that was the rank of police officer?

4 A. That went all the way from the rank of police
5 officer or probationary police officers to the rank of
6 lieutenant.

7 Q. How long were you at the Incident Response Team?

8 A. I was there until, I believe, around September 28
9 of 2012.

10 Q. That's only a few months?

11 A. Correct. Yes.

12 Q. July to, like, September?

13 A. Correct.

14 Q. Why so short?

15 A. Two reasons. One of them, I had my sister, who
16 was terminally with cancer. And the second, just a hostile
17 work environment that I was subjected to retaliation. So I
18 put in my papers for retirement.

19 Q. Okay. Did you take any medical leave?

20 A. No, I did not.

21 Q. How was it a hostile work environment?

22 A. Simple thing as me as a commanding officer of a
23 command looking to deny a 28. A 28 is basically when
24 someone looks to take time off and then I'm basically being
25 undermined and marginalized for a task as simple as that.

M. VUCINAJ

1 That's one example.

2 Q. Underminded by who?

3 A. In this case specifically Inspector Kevin
4 Harrington.

5 Q. What was Inspector Kevin Harrington's
6 relationship to the Incident Response Team?

7 A. As I said earlier, he was assigned to Patrol
8 Borough Bronx and I believe he was in charge for operations
9 for the Patrol Borough Bronx which, once again, I fell
10 under him and reported to him. He's, in essence, my
11 supervisor.

12 Q. That relationship would date back to the Impact
13 Unit?

14 A. Correct.

15 Q. Did you feel that he undermined you prior to
16 your being at the Incident Response Team?

17 A. Yes.

18 Q. Tell me more about Kevin Harrington. Did you
19 know him prior to your assignment to the Patrol Borough
20 Bronx?

21 A. No, I did not.

22 Q. And how old is he, approximately? Is he older
23 than you, younger than you?

24 A. I believe he was older than me. I don't know by
25 how much.

M. VUCINAJ

- 1 Q. What was his race?
- 2 A. White.
- 3 Q. Do you know his national origin?
- 4 A. I believe Irish.
- 5 Q. Did you ever make any complaints about Kevin
- 6 Harrington?
- 7 A. I'm trying to think.
- 8 Q. Take your time.
- 9 A. When you say made any complaints, at any time to
- 10 the present time?
- 11 Q. Yes. Did you make a complaint to the NYPD about
- 12 Kevin Harrington at any time, formally or informally?
- 13 A. I believe I did both. Believe I did both as well
- 14 as with -- it was indirect kind of complaint.
- 15 Q. Okay. What does that mean?
- 16 A. 'Cause during my assignment to the 42 precinct as
- 17 the executive officer he called me into his office and
- 18 during the conversation he asked if I was interested in
- 19 having my own command. And I told him I'm definitely
- 20 interested in that prospect and he told me I needed to
- 21 start playing the game.
- 22 Q. Okay. Did he elaborate?
- 23 A. No, he didn't elaborate, but I knew in what
- 24 context he was speaking of.
- 25 Q. What is the game?

M. VUCINAJ

- 1 A. Crime stat manipulation.
- 2 Q. Did you complain of this to the NYPD?
- 3 A. At that time, no.
- 4 Q. At any time did you complain to the NYPD?
- 5 A. Yes.
- 6 Q. When did that happen?
- 7 A. That started happening in, I would say, in 2014.
- 8 Q. What specifically did you do to complain?
- 9 A. Internal Affairs.
- 10 Q. What did you report to Internal Affairs?
- 11 A. You have commanding officers, executives of the
- 12 department manipulating crime statistics or falsifying
- 13 them.
- 14 Q. Why did you wait until 2014?
- 15 A. Well, at that time when I had an inspector from
- 16 the Patrol Borough Bronx tell me to play the game, after a
- 17 couple of days I ordered two officers to write a complaint
- 18 report for a robbery, I knew what position I was in.
- 19 Q. I don't understand. I'm sorry.
- 20 A. It's coming from the main office in the Bronx.
- 21 He knew about it. The CO knew about it. And basically
- 22 everyone knew about it. Me going to anyone would have been
- 23 one, futile, and two, it would have put me in harm's way at
- 24 that time.
- 25 Q. Okay. But subsequent to this conversation you

M. VUCINAJ

1 did receive a commanding officer position; is that correct?

2 A. Not all promotional commands are officer
3 position.

4 Q. What is the difference?

5 A. It's a huge difference.

6 Q. Explain it to me.

7 A. A precinct is not the same thing as IRT.

8 Q. What is an IRT?

9 A. That's the Incident Response Team.

10 Q. You have a precinct and we have an IRT. And we
11 have promotional commanding officer position and then we
12 have just a regular commanding officer position?

13 A. Not every commanding position is promotional
14 commanding officer position.

15 Q. Tell me what the promotional commanding officer
16 position is?

17 A. Example is a precinct. Another example is a
18 transit district. Another example is a police service
19 area.

20 Q. How are those different from an IRT?

21 A. They are an actual true command in every sense.

22 Q. The IRT is not a true command?

23 A. No.

24 Q. So when I asked and you said that you hadn't been
25 promoted to a commanding officer position, weren't you

M. VUCINAJ

1 assigned to the precinct as a commanding officer?

2 A. No. I never said that.

3 Q. Okay.

4 A. As a precinct, it's always executive officer
5 which is the number two.

6 MS. BLAIR: Okay. Yes, you are right.

7 Forgive me. There's a lot of stuff going on in
8 the NYPD that I don't know.

9 MR. ALBANESE: We understand it's partially
10 --

11 Q. We have -- okay. I think I get it. The
12 precinct, the Transit District, the transit service area
13 are promotional KL?

14 A. No. Commanding officer position.

15 Q. Where you have, like, a true command and I guess
16 it's separate; is that how you are classifying it?

17 A. Well, let me put it -- let me put it in the sense
18 where because obviously I don't believe anyone's worked in
19 a precinct or in our Police Department. A precinct, a
20 Transit District, a police service area, they have a full
21 staff.

22 Q. Okay.

23 A. Okay. They have their own dedicated location.

24 MR. ALBANESE: Explain who is number one,
25 who is number two, maybe that will help.

M. VUCINAJ

1 A. You have a commanding officer in any one of these
2 three-type scenarios. These aren't the only three.

3 MR. ALBANESE: Who is usually the commanding
4 officer?

5 THE WITNESS: Commanding officer at the
6 minimum rank would be a captain. But usually
7 they are in line to be promoted in that command
8 or a subsequent command.

9 Q. Okay.

10 A. Number two person.

11 Q. And then be promoted to what?

12 A. Deputy inspector, which is a discretionary
13 promotion.

14 Q. When you are promoted to a deputy inspector do
15 you stay at the same location?

16 A. All depends. Some people stay in the same
17 command and have been promoted twice.

18 Q. And then a dedicated location, full staff, what
19 other things distinguish them from an IRT?

20 A. They are actually, they are fixed. So you
21 actually have boundaries. You have borders. And those are
22 very specific to that one command.

23 Q. Okay. Is there difference in salary between
24 being the commanding officer, promotional commanding
25 officer versus any other of the IRT?

M. VUCINAJ

1 A. No. I mean Civil Service. We all get paid the
2 same. The only time you'll get paid more as far as
3 executives go is with promotion. If you are getting night
4 differential. If you work day shift and someone working
5 evening shift, the person working evening would make more
6 than the person working day if they are equal ranks and
7 time.

8 With the newest contract you are allowed to do up
9 to a hundred overtime hours a year. If you have
10 availability of doing overtime that can increase your
11 salary.

12 Q. Let's go back to when you were at the Incident
13 Response Team. You are the commanding officer but it's not
14 the same as a commanding officer of a precinct; correct?

15 A. Correct.

16 Q. And how do you become the commanding officer of
17 the precinct?

18 A. Well, that's part of the mystery.

19 Q. Okay. You don't know?

20 A. To my knowledge, there's no formal procedure.
21 For you to actually -- at that time to apply at that time.

22 Q. We're talking about 2012?

23 A. Exactly. That I was aware of it, was basically
24 you would tell them if you are interested or they would
25 approach you.

M. VUCINAJ

1 Q. Who is "them" that you would tell?

2 A. Well, from my understanding it would be
3 executives from the Patrol Borough Bronx. Or it can even
4 come from outside the Patrol Borough Bronx. Someone from
5 headquarters. Someone with that ability to position you.

6 Q. Who has the ability to position you?

7 A. I guess people that have that authority. Once
8 again, I really can't tell you because there at that time
9 there was -- there wasn't a policy or there's a process in
10 place, like a formal process, to apply for these types of
11 positions, at least that I was aware of at that time.

12 Q. In your conversation with Kevin Harrington, were
13 you under the understanding that he could place you as a
14 commanding officer in a precinct or that he was just asking
15 you if you wanted to be a commanding officer?

16 A. It's kind of hard to answer that simply for the
17 fact, retired Deputy Chief Kevin Harrington had influence
18 within the NYPD, at least from my observations and from my
19 understanding. So he could potentially influence and, you
20 know, make something like that happen but usually it would
21 be the recommendation coming from the commanding officer of
22 the Patrol Borough Bronx which would be assistant chief, a
23 two-star chief. And even then, it's a recommendation.

24 Q. How do you know that?

25 A. What do you mean?

M. VUCINAJ

1 Q. How do you know it comes from a two-star chief in
2 the Patrol Borough Bronx?

3 A. This is from what I gathered during that time.
4 Recommendations put in.

5 Q. You specifically didn't know?

6 A. As I stated earlier, there was no formal process.

7 Q. I just want to clarify. Two star chief is
8 something. I mean maybe there's something --

9 A. Well, a two-star chief in every patrol borough
10 the commanding officer of that borough for patrol
11 specifically is a two-star chief, which is an assistant
12 chief.

13 Q. And then so how did you get the commanding
14 officer position of the Incident Response Team? Did you
15 apply for it?

16 A. No.

17 Q. Who promoted you to that position?

18 A. Well, it wasn't a promotion. It was an
19 assignment.

20 Q. What is the difference between being assigned the
21 commanding officer to the Incident Response Team versus
22 being assigned to the precinct? It's just the different
23 job duties?

24 A. It's different.

25 Q. And status, I guess?

M. VUCINAJ

1 A. Yes. Yes.

2 Q. But there was nothing keeping you from being
3 assigned to the precinct versus the Incident Response Team,
4 it was whoever decided where you were going to be assigned?

5 A. What do you mean, keeping me from?

6 MS. BLAIR: We'll move on.

7 MR. ALBANESE: Basically the short answer is
8 he could be assigned different offices as a
9 captain and not a commanding officer. He'd be
10 assigned to the Incident Response Team or some of
11 the other captain duties as number two or number
12 three in the precinct and never get that
13 promotion as a commanding officer; am I correct
14 there?

15 THE WITNESS: More or less. See, the
16 problem is, nothing's written in response here.

17 MR. ALBANESE: I'm giving a very short
18 synopsis; am I correct?

19 THE WITNESS: Can you say it again.

20 MS. BLAIR: He can't testify for you.

21 THE WITNESS: I don't want to give
22 inaccurate information.

23 Q. At the Incident Response Team you were the
24 commanding officer. That meant you were number two or
25 number one?

M. VUCINAJ

1 A. No. Commanding officer is number one. That's
2 what I was told and in all, you know, just to be clear for
3 the record, I'm not even a hundred percent sure as me being
4 a commanding officer. I was told I was going to be the
5 commanding officer of that unit.

6 Q. Who told you that? Was it someone in the Patrol
7 Borough Bronx?

8 A. Yes. It was a police officer that called me up
9 and told me not specifically that I was commanding officer
10 but specifically I'm being, you know, I'm being assigned to
11 the Incident Response Team.

12 Q. And then you just reported for duty?

13 A. I'm trying to remember her name. Yes. This is
14 like in July, right before or during my vacation.

15 Q. Other than the 28 issue that you explained with
16 Kevin Harrington, how else did you suffer hostile work
17 environment at the Incident Response Team?

18 A. In other examples.

19 Q. How did you feel it was a hostile work
20 environment?

21 A. As the head of the unit as an executive they gave
22 me a vehicle -- this is right smack in the middle of the
23 summer -- that was dilapidated. It was with no
24 air-conditioning. It was several years old. I believe at
25 the time I think the bumper was almost about to fall off. I

M. VUCINAJ

1 mean, it wasn't a car you would give to a regular sector
2 car, let alone a commanding officer and a captain of the
3 NYPD.

4 Q. Did you complain about the car?

5 A. I made, you know, I had made a comment to it and
6 I was told that what was left. That's what we can get and
7 then I had to speak to someone, a deputy inspector, and he
8 actually saw the car and he was in shock. And soon after
9 -- he's not from Patrol Borough Bronx, he was from the
10 Support Services Division for allocating vehicles for the
11 department. Shortly afterward he replaced that car,
12 rightfully so.

13 I had a sergeant, a probationary sergeant, that
14 was being insubordinate and I don't believe they did
15 anything to him.

16 Q. Why did you think that Kevin Harrington created a
17 hostile work environment for you?

18 A. Why do I think?

19 Q. Did he not like you? Do you think it was because
20 of your race, your national origin? Why do you think that
21 your work environment was hostile?

22 A. Well, I only like to speak to facts and he never
23 said anything directly towards me in that regards. His
24 actions, you know, basically did the talking for me.

25 Because, as I told you, a 28, which is for

M. VUCINAJ

1 someone to take a leave a absence. That falls on the sole
2 discretion of the immediate supervisor or the commanding
3 officer, where, at that time it was understood Fridays and
4 Saturdays, the only approval comes from me due to the fact
5 Fridays and Saturdays are very busiest times and most
6 dangerous times and we got to make sure we have our
7 resources made available as opposed to people just taking
8 off at will.

9 Q. And he would overrule your decisions?

10 A. He did in that case.

11 Q. Was that one instance or multiple incidents?

12 A. That was one incident.

13 Q. You put in your papers for retirement and I'm
14 assuming you didn't retire?

15 A. Correct.

16 Q. What happened?

17 A. I returned January 2015, just about 15 and a half
18 months after.

19 Q. What were you doing in the interim?

20 A. I was caring for my sister in part.

21 Q. But you didn't take any medical leave?

22 A. No.

23 Q. So what was your --

24 A. I was medical leave.

25 Q. What was your source of income?

M. VUCINAJ

1 A. I was still getting paid. I had time on the
2 books, as we say. I was running my time that I've
3 allocated throughout my career.

4 Q. But then you just didn't go through with the
5 retirement?

6 A. Exactly. I filed for it and then come
7 January 2014, I pulled my papers. And basically fully
8 reinstating me back to the NYPD.

9 Q. Where were you assigned in January 2014?

10 A. I was assigned to the 42 precinct.

11 Q. What was your job title?

12 A. Executive officer.

13 Q. That's number two?

14 A. Correct.

15 Q. How long were you there?

16 A. I was there, I believe, the first week of May.
17 From mid-January to the first week of May, give or take.

18 Q. Why did you leave?

19 A. I was told to leave.

20 Q. Why?

21 A. I was transferred.

22 Q. Where were you transferred?

23 A. I was first transferred to the 52 precinct.

24 Q. How long were you there?

25 A. One week.

M. VUCINAJ

1 Q. And then where did you go next?

2 A. I was to the 47 precinct.

3 Q. How long were you at the 47 precinct?

4 A. Until mid-October 2014.

5 Q. We're looking at May to October. Who told you to
6 transfer from the 42 precinct? Did you have any say over
7 this decision?

8 A. No. I don't, as a captain.

9 Q. They just tell you where you are supposed to go
10 and you go?

11 A. I received a direct phone call from then Deputy
12 Chief Terence Monahan currently Chief of Department Terence
13 Monahan. He was an executive officer in Patrol Borough
14 Bronx.

15 Q. Were you having issues at the 42 precinct?

16 A. I guess you can say so.

17 Q. What kind of issues were you having?

18 A. Once again, falsification of criminal complaint
19 reports.

20 Q. Who was doing that?

21 A. Members assigned to the 42 precinct. At the
22 countenance of the commanding officer, then Captain Steven
23 Ortiz, currently Inspector Steven Ortiz. He was also
24 stealing and abusing of overtime.

25 Q. Did you complain about this while you were at the

M. VUCINAJ

1 42 precinct?

2 A. Stealing of the overtime I reported.

3 Q. Who did you report it to?

4 A. To Internal Affairs Bureau.

5 Q. Do you know what the result of that investigation
6 was?

7 A. No, I do not.

8 Q. The falsification of criminal complaints?

9 A. I believe it might have been the end of that year
10 or beginning of 2015, somewhere around there, not a hundred
11 percent sure.

12 Q. You did what? You made a complaint?

13 A. Yea. Yea.

14 Q. To IAB?

15 A. Correct.

16 Q. And do you know the result of that complaint?

17 A. No, I do not. But I can tell you those reports
18 are still the same as they were then as they are now today.

19 Q. What does that mean?

20 A. Those reports that should have been, you know,
21 reclassified properly, as then-Captain Steven Ortiz told me
22 he was going to take care and address, never done.

23 Q. Whether you say falsification of criminal
24 complaint report, what was happening?

25 A. You have a crime take place and instead of

M. VUCINAJ

1 reporting the crime that occurred you report a non-Index
2 crime.

3 Q. What is a non-Index crime?

4 A. A non-Index crime would be anything other than
5 murder and non-neglect manslaughter, rape, robbery, assault
6 2, burglary, grand larceny; grand larceny of a vehicle.

7 Q. The officers, for example, wasn't reporting a
8 murder?

9 A. Not in this case.

10 Q. Okay. But that would be an example of not
11 reporting the actual crime?

12 A. Yes.

13 Q. Why would they do that?

14 A. It reflects well on the command, on the
15 commanding officer, on the patrol borough, on the
16 department, for the mayor. Crime reduction.

17 Q. Less crimes if you are not reporting it?

18 A. 25 years of continuous downward trends. It's
19 amazing.

20 Q. You find that to be inaccurate?

21 A. A hundred percent inaccurate.

22 Q. Does the public ever complain that, you know, for
23 example, the murder wasn't reported as in order or do they
24 not know that information?

25 A. They probably would know through open source.

M. VUCINAJ

1 Media. But as far as specifically them being told by the
2 Police Department, not that I am personally aware, but
3 there are accounts through, once again, open sources, you
4 know, the internet.

5 Q. To your knowledge, has anyone complained that
6 this crime was not classified correctly?

7 A. As I just stated, they probably in most
8 instances.

9 Q. But not to your knowledge?

10 A. Not to my knowledge, but I am aware of reports
11 not being taken. Not being taken at all. Not even
12 falsified. Not even taken.

13 Q. Was that person in your command when they didn't
14 take the report?

15 A. In general, no. I'm not aware of a specific one
16 but in general they'll just be individual victims in
17 different commands and different boroughs throughout the
18 City.

19 Q. Specifically, when you were a commanding officer,
20 no one in your command reported to an incident and then
21 didn't make a criminal complaint?

22 A. No. Because then I was the Incident Response
23 Team, you know, commanding officer. We are not the
24 custodians of those reports, which is another difference
25 when we talk about precincts. That's where the reports are

M. VUCINAJ

1 filed. That's where they are processed. That's where they
2 are viewed. That's where they are investigated and so
3 forth.

4 Q. Why do you think you were transferred from the 42
5 precinct?

6 A. Because I was reporting this corruption.

7 Q. And that consists just of the stealing?

8 A. Or trying to correct it.

9 Q. How did you try to correct the corruption?

10 A. Well, specifically -- specifically there was one
11 arrest -- the officer was in a School Safety Unit. It
12 involved, I believe, 11 or 12-year old child while in the
13 principal's office was assaulted by the father. Not only I
14 think this was slaps or punches but he took the broom
15 handle, a wooden stick and started beating the child over
16 the head with a stick to the point where it broke in
17 pieces.

18 This was basically conveyed to me by the
19 arresting officer and I saw the report. It was classified
20 as endangering the welfare of a child. And I told him that
21 needs to be correctly classified as Assault 2. He's, like,
22 well, the child wasn't injured. I'm, like, you still have,
23 at the minimum, an attempted Assault 2. I left it at that.
24 I come in the following -- I think this was on a Thursday
25 in the first or second week of April.

M. VUCINAJ

1 I come in the following week. I believe it was a
2 Tuesday. It was my swing. Then Captain Steven Ortiz was
3 on vacation. So as part of -- well, as part of overall
4 duty I'm reviewing the complaint reports. I see the
5 complaint report. Left the same. I saw several other
6 reports falsified as well, showing it should have been an
7 index crime.

8 I went to crime analysis. I instructed crime
9 analysis to properly reclassify them. Before I'm even
10 sitting in my chair, Captain Steven Ortiz from vacation
11 calls me up. What are you doing. Nothing, I reply. He's,
12 like, you are changing the numbers. I'm, like, no, I'm
13 not. It's impossible. He's, like, well, I'm looking at
14 the numbers. I said that's impossible. I said those are
15 incorrect reports. He's, like, leave them alone. I'm,
16 like, leave them alone? He's, like, I'll take care of them
17 when I come in next week. I said, are you sure, it's no
18 problem. He said, I'll take care of them when I come in
19 next week. That was the end of the conversation. And I
20 also spoke to that police officer sergeant, his direct
21 supervisor.

22 Q. Yes.

23 A. Because when I asked the officer, I asked the
24 officer why didn't you reclassify as I told you. He's,
25 like, my supervisor told me. I went to the supervisor.

M. VUCINAJ

1 I'm, like, why did you tell your officer not to follow my
2 instructions. He's, like, well I'm doing it for you, you
3 too. I'm, like, excuse me. I'm telling you to properly
4 classify. I'm doing it for him and he points to the
5 commanding officer's office. I'm, like, no, it doesn't
6 work like that. So shortly afterwards, I'm transferred.

7 Q. Okay.

8 A. As I said, that specific incident as well as
9 others that I told crime analysis as well as captain at the
10 time that were a hundred percent improperly falsified,
11 okay, are still as they were then, today.

12 Q. What is the consequence of the misclassification?

13 A. What do you mean?

14 Q. So it's classified as endangering the welfare of
15 a child rather than Assault 2. What is the consequence?

16 A. I don't understand.

17 Q. Well, you are insinuating it affects the numbers.
18 Does it have any effect on the conviction of the person
19 whose being accused of the crime and their litigation? I'm
20 just trying to understand why -- yeah.

21 What is the consequence of the misclassification?

22 A. Besides our integrity being compromised.

23 Q. It's a judgment call?

24 A. No, it's not. You are completely inaccurate on
25 that.

M. VUCINAJ

1 Q. Is there a guideline or book that you are to
2 follow?

3 A. It's called the Penal Law. New York State Penal
4 Law.

5 Q. Yes.

6 A. We also have a Crime Complaint Classification
7 Reference Guide, something along those lines, where it
8 gives examples.

9 Q. Are officers allowed to make a judgment about
10 what to classify the crime as or it has to be specifically
11 within the guidance of the Penal Law and the guideline
12 book?

13 A. We are guided by the Penal Law as well as the
14 guide itself. That's the purpose of the guide, to clarify
15 things that may need clarification.

16 Q. In this instance where the officer reported it as
17 endangering the welfare of a child versus your
18 interpretation?

19 A. It's not interpretation, it's the fact. There is
20 no personal opinion here. It's a hundred percent factually
21 based on the Penal Law as well as the department policy.

22 Q. Okay. I'm going to finish my question.

23 A. Sorry.

24 Q. When there is a difference in opinion and you
25 might not agree but this is how I'm going to phrase the

M. VUCINAJ

1 question.

2 When there is difference in opinion when
3 classifying the crime as endangering the welfare of a child
4 versus Assault 2, how is that reconciled, that difference?

5 A. The authority for the classifications of the
6 criminal complaint reports within the NYPD will be
7 basically conferred with Data Integrity Unit.

8 MR. ALBANESE: When you have a good time to
9 take a two-minute break.

10 MS. BLAIR: Okay. Yes. I'm just going
11 through the rest of his employment.

12 Q. And the Data Integrity Unit, what is their
13 responsibility?

14 A. Data integrity.

15 Q. You have a difference in opinion between, you
16 know, the officer, the commanding officer, supervisor,
17 whoever, and then you take it to Data Integrity and they
18 decide what it is going to be classified as; correct?

19 A. If the situation rises to that level because,
20 once again, you may not be familiar already with criminal
21 law but what I laid out for you is the classic Assault 2.
22 There is no discrepancy. There is no opinion. There is no
23 gray area. It is a hundred percent Assault 2.

24 Q. Why did the officer come to you with his report
25 saying or did he tell you why he came to you with his

M. VUCINAJ

1 report saying endangerment of the welfare of a child?

2 A. He didn't come to me.

3 Q. Did you not say he had told you about the
4 incident?

5 A. Yeah, because I approached him. He was in the
6 office. He was in the School Safety.

7 Q. He had originally classified it as endangering
8 the welfare of a child. You read the report and said why
9 did you put it as Assault 2?

10 A. No. He was processing the arrest. I saw him in
11 the School Safety Office. I walked in. I asked him what do
12 you got, so to speak. What do you have. And he explained
13 to me like I explained to you moments earlier. And that's
14 when I instructed him. I gave him a lawful order that this
15 needs to be properly classified to an Assault 2.

16 Q. So then you were transferred to the 52 precinct
17 and were there for a week. Why only a week?

18 A. You need to ask the Patrol Borough Bronx. I get
19 a phone call from the personnel lieutenant telling me, what
20 are you doing there. I'm, like, excuse me. He's like what
21 are you doing there, you are supposed to be in the 47
22 precinct. He's, like, who told you. I'm, like, who told
23 me. I said Chief Monahan told me directly. Awkward pause.
24 Oh, oh, it was a mistake. You are in the 47 precinct.

25 Q. So then you go to the 47 precinct. You are there

M. VUCINAJ

1 from May to October 2014. Where do you go next?

2 A. Then I get assigned to Patrol Borough Queens
3 South.

4 Q. Okay. What is your title there?

5 A. I'm assigned to the midnight duty captain.

6 Q. You are number one for the midnights?

7 A. No. No. It doesn't work like that. Midnight
8 duty captain is a midnight duty captain.

9 Q. You have no executive position here?

10 A. No. In the command type structure, no.

11 Q. And how long were you there?

12 A. I was there until -- well, I had -- from December
13 till April -- December of 2014 until April 2015. I was
14 assigned again, selected as a subject matter expert to be
15 on the writing panel for the promotional exam of
16 lieutenant.

17 Q. You were back in personnel?

18 A. For four months.

19 Q. And you don't know who recommended you for the
20 position?

21 A. No.

22 Q. You were at the Patrol Borough Queens South from
23 April 2014 to December. You had a break for the exam and
24 in April 2015 where did you go?

25 A. Back to the same position, midnight duty captain

M. VUCINAJ

1 at the Patrol Borough Queens south.

2 Q. When did you leave?

3 A. In March of 2016.

4 Q. Where did you go next?

5 A. The 101 precinct.

6 Q. What was your title and position?

7 A. Executive officer again.

8 Q. At this time were you still under, I don't want
9 to say command, but supervision of Kevin Harrington?

10 A. No.

11 Q. He's only at the Patrol Borough Bronx?

12 A. I don't know if he was still there at the time.
13 I believe he went to Grand Larceny Division.

14 Q. Executive officer in what capacity? Were you a
15 commanding officer?

16 A. No. Completely two distinct titles and
17 positions.

18 Q. Executive officer is number two?

19 A. Number two in any command and any scenario, the
20 executive officer will be number two.

21 Q. How long were you there?

22 A. I was there until the first week of July 2016.

23 Q. Where did you go after that?

24 A. I put in my papers again for retirement.

25 Q. Why?

M. VUCINAJ

1 A. More retaliation. More hostile work environment.

2 Q. By who?

3 A. Patrol Borough Queens South officers over there.

4 Internal Affairs Bureau, specifically names I can't exactly
5 tell you.

6 Q. Why do you feel you were retaliated against?

7 A. There was insubordination. There was -- and much
8 discourtesy.

9 Q. Insubordination by your own officers?

10 A. Correct.

11 Q. What did insubordination have to do with Patrol
12 Borough Queens South?

13 A. Specifically Patrol Borough Queens South?

14 Q. No. I'm asking what does your officers'
15 insubordination have to do with Patrol Borough Queens
16 South? You are saying that Patrol Borough Queens South
17 told your officers to be insubordinate?

18 A. I can't say telling them.

19 Q. How is Patrol Borough Queens South responsible
20 for your officers' insubordination?

21 A. Just my officer total treatment.

22 Q. You said insubordination. List the general
23 allegations you are making.

24 A. And general hostile work environment and, in
25 essence, retaliation, because when I was filing complaints

M. VUCINAJ

1 with the Internal Affairs Bureau what they were doing, in
2 turn, they were circulating my complaint to, I believe,
3 they said it goes from there, it goes to the Chief of
4 Department. It went down to Chief of Patrol. Then it went
5 down to Patrol Borough Queens South.

6 They gave me the complaints I made. I -- they
7 sent them to me to investigate them. In essence, by doing
8 that, instead of them doing a proper confidential
9 information, they are letting everyone know that I'm
10 falsifying the criminal complaints report amongst other
11 type of corruption and other type of criminal conduct.

12 Q. Are you alleging that that process was unusual?

13 A. A hundred percent unusual.

14 Q. And how do you know that?

15 A. Because I've been with the Police Department at
16 that time over 20 years. I've been an executive where I
17 called in complaints before and I never received complaints
18 I called in to investigate myself unless if it was within
19 the command. But even then I never, never in my whole
20 career as a captain have investigated any complaint that
21 I've called in to Internal Affairs Bureau Command Center.
22 Make a full circle coming back to me to investigate. These
23 were also out the precincts.

24 Q. You put in your papers at what time?

25 A. The first week of July 2016.

M. VUCINAJ

1 Q. And why didn't you retire?

2 A. What do you mean?

3 Q. Did you retire at that time?

4 A. No.

5 Q. Why not?

6 A. My choice.

7 Q. You withdrew your papers again?

8 A. Yes. Do you want more acts of retaliation?

9 Q. Let's just go through the list of where you've
10 been.

11 When did you return to work?

12 A. I returned to work, I believe, November 19, 2016.

13 Q. Where were you assigned?

14 A. Then I was transferred from the 101 precinct to
15 Transit Borough Brooklyn, which is also unusual.

16 Q. Why is it unusual?

17 A. Because usually you go back to the same bureau
18 that you were assigned to. I was never assigned to the
19 Transit Bureau in my whole career.

20 Q. Had someone filled your position as executive
21 officer?

22 A. At the 101 precinct, I believe so.

23 Q. At the Transit Bureau?

24 A. But there's other executive officer positions
25 throughout the Patrol Services Bureau.

M. VUCINAJ

1 Q. At the Transit Bureau Brooklyn what was your
2 position?

3 A. Then I was told I would be assigned as the
4 executive officer to Transit District 30.

5 Q. Were you actually assigned as executive officer?

6 A. I was told but as far as on paper, like, official
7 process, I've never been transferred since November of 2016
8 to present day.

9 Q. What does that mean?

10 A. Any time you make movement, you are assigned
11 somewhere else, there's an official process that occurs.
12 And it comes in the form of a personnel order. And the
13 personnel order shows all transfers, even temporary
14 assignments.

15 Q. And so you haven't received that official
16 personnel order?

17 A. Since November -- November 19 of 2016. I'm still
18 assigned to Transit Borough Brooklyn.

19 Q. As what?

20 A. That's the thing. I'm not there.

21 Q. Where are you?

22 A. Currently?

23 Q. Currently?

24 A. I'm assigned to the Transit Bureau Liaison Unit,
25 which is command code 851 as opposed to command code 859,

M. VUCINAJ

1 which is Transit Bureau Brooklyn and that's located at 3354
2 West 54th Street, New York, New York.

3 Q. What is your title there?

4 A. Executive liaison.

5 Q. What does that mean? What do you do as the
6 executive liaison?

7 A. Don't know. The question hasn't been answered.
8 I've asked that question, is basically what I'm getting at.
9 I've asked that question. Next month would be 12 months, a
10 full year, and that question still has not been answered to
11 me.

12 Q. So from November 19, 2016 you went actually,
13 correct me if I'm wrong, you went directly to the Transit
14 Bureau Command Unit or did you go to the Transit Bureau of
15 Brooklyn?

16 A. No. No. November 19, 2016 I got transferred
17 from the 101 precinct. This is my return from when I put
18 my papers in to Transit Bureau Brooklyn.

19 Q. You did actually work in Transit Bureau Brooklyn?

20 A. No.

21 Q. It's just on paper you went to the Transit Bureau
22 Brooklyn?

23 A. Yes. The way it normally starts off, you get
24 assigned to the Bureau Office and they make a decision as
25 far as where your assignment is going to be within the

M. VUCINAJ

1 bureau unless you actually have a position within the
2 bureau office, which I did not. There was a choice between
3 Transit Districts 33 and 30. Transit District 33, very
4 busy place; ten minutes from my house. I don't get that.
5 I get Transit District 30. Minimum 45 minutes plus from my
6 house and a very slow place. Meaning crime-wise,
7 activity-wise. I get assigned that following Monday when I
8 report to Transit Bureau Brooklyn.

9 Q. You were told but you didn't get a piece of
10 paper?

11 A. Exactly. That was officially formally done as
12 far as what normally takes place in the form of a personnel
13 order.

14 Q. You didn't have any control over where you went
15 from 33 or 30, between 33 and 30?

16 A. No, I did not.

17 Q. Well, did you know about the options for 33 and
18 30?

19 A. Yes.

20 Q. Did you tell anyone that would you rather go to
21 33?

22 A. Specifically at that given moment, no, because
23 the decision was made.

24 Q. How do you know that?

25 A. Because they told me I'm going to Transit

M. VUCINAJ

1 District 30.

2 Q. Why do you think you were transferred to Transit
3 District 30?

4 A. A form of retaliation.

5 Q. By who?

6 A. You'll have to ask.

7 Q. Who do you think it is?

8 A. Who do I think it is?

9 Q. Yes.

10 A. I'm trying to remember -- if it was Chief Monahan
11 if he was Chief of Patrol at that time. Okay.

12 MS. BLAIR: Let's clarify and then we'll
13 take a break.

14 Q. Who was responsible for your transfer?

15 A. Specifically I don't know who. Executives.

16 Q. Where did your transfer come from?

17 A. Where does it come from?

18 Q. Yes.

19 A. It comes from personnel. Chief of Personnel.

20 All personnel orders, his name is at the bottom. His or
21 her name is at the bottom. The chief of personnel. It's a
22 three star chief. You have the assistant chief which is
23 two star.

24 Q. When you came back on November 19, 2016 where did
25 you report to, 1301?

M. VUCINAJ

1 A. No.

2 Q. Where did you go?

3 A. Transit Borough Brooklyn.

4 Q. Where is that located?

5 A. That's located, I believe, 960 Carroll Street in
6 Brooklyn, New York. Located within Transit District 32.

7 Q. What did you do on that day?

8 A. I sat down with Inspector Vincent Giantasio,
9 commanding officer at Transit Borough Brooklyn as well as
10 the Executive Officer Hsachas, H-S-A-C-H-A-S.

11 Q. What did you guys talk about?

12 A. Now I'm being assigned to Transit District 30.

13 Q. Were you told you were assigned? You've been at

14 --

15 A. Prior to that meeting with the two of them,
16 Deputy Inspector Hsachas was walking with and said, by the
17 way, I had charges and specifications prior to me
18 submitting my, you know, my paperwork for retirement.

19 Q. Okay.

20 A. Which was completely false.

21 MS. BLAIR: We'll talk about that later.

22 Q. You are currently still at District 30; is that
23 correct?

24 A. Incorrect.

25 Q. Where are you now?

M. VUCINAJ

1 A. I'm at the MTA Rail Control Center located at
2 West 54th, New York, New York. I had a spot in between
3 there too, by the way.

4 Q. Okay. You went from -- how long were you at
5 Transit District 30?

6 A. I was there until the third week of June 2017.

7 Q. Where did you go next?

8 A. Transit Borough Brooklyn.

9 Q. And you actually reported there?

10 A. Yes, I did.

11 Q. What was your title?

12 A. I had none.

13 Q. What were your job duties?

14 A. I had none up until October, the end of
15 October 2017.

16 Q. Okay.

17 A. Deputy Inspector Hsachas, seeing that I had no
18 duties and responsibilities at all delegated to me -- he
19 stated since you are meticulous with paperwork and you are
20 good, I want you to review the trial reports and the trial
21 reports are the threat resistance or injury reports. It's
22 basically when we use force against the, member of the
23 public, and or force is used against us.

24 Q. As of October 2017 -- and then where did you go
25 after Transit Borough Brooklyn?

M. VUCINAJ

1 A. Then July 25, 2018, that's when I was informed
2 I'm being transferred to the MTA Rail Control Center. The
3 Transit Bureau's Liaison Unit.

4 Q. What is your title there?

5 A. Once again, I have no title, per se. Except that
6 I'm a captain. That's my rank. So that goes with me
7 anywhere I am assigned to.

8 Q. Okay. What are your job duties?

9 A. Once again I have not been given any specific
10 duties and responsibilities despite multiple requests and
11 complaints.

12 Q. What do you do every day?

13 A. What do you mean what do I do every day?

14 Q. When you go in to work what do you do? Do you
15 sit there? Do you do paperwork work? What kind of
16 paperwork? Do you get coffee? Do you talk to anyone?
17 What do you do when you go to work?

18 A. I do a little bit of everything. My work
19 consists of paperwork; doing leave of absence reports.

20 Q. Are you still doing patrol?

21 A. No.

22 Q. Do you deal with any crimes?

23 A. No.

24 Q. Do you have anyone who works below you?

25 A. All depends on how you view it.

M. VUCINAJ

1 Q. Do you supervise anyone?

2 A. Technically, no.

3 Q. Why technically?

4 A. Because, once again, I'm not assigned as a
5 commanding officer. I'm not assigned as an executive
6 officer. I have no title.

7 Q. Un-technically or nontechnically do you supervise
8 anyone?

9 A. Because I am a captain, I have a sergeant working
10 with me. Technically, I'm higher ranking, you know, as
11 uniformed member of the service but I don't schedule their
12 hours, their overtime. I don't do any of that.

13 Q. Why do you sign off on the overtime slips?

14 A. Because I requested it after I had to discuss
15 with Inspector Portis and Inspector Bastendenbeck because
16 they said, oh, don't worry. I said I think it's important
17 for me when people are doing overtime, when people are
18 leaving early or taking time off. It was at my request.

19 Q. How many people do you work with?

20 A. Just one. One person.

21 MS. BLAIR: Okay. Let's take a break.

22 (Whereupon, a short recess was taken.)

23 MS. BLAIR: Thank you, you made it through
24 your employment.

25 Q. You are currently employed with the NYPD?

M. VUCINAJ

1 A. Yes.

2 Q. And is there a collective bargaining agreement
3 with the NYPD? Are you in a union?

4 A. Yes.

5 Q. Is there a process for filing grievances?

6 A. I believe so.

7 Q. If you want to make a complaint against someone
8 in the NYPD, what would you do?

9 A. In what context?

10 Q. Let's say, not a discrimination complaint, just a
11 regular harassment complaint or, yeah, let's go with
12 harassment?

13 MR. ALBANESE: You mean from an employment
14 type?

15 MS. BLAIR: Yes.

16 Q. Let's say you are a sergeant and your unit is
17 bothering you and you want to complain about it, what would
18 you do?

19 A. Can you give me more of a setting? As a
20 commanding officer?

21 Q. Specifically in your MTA Rail Control Center and,
22 Tom, the sergeant you work with clicks his pen too much and
23 you want to complain about it, who would you complain to
24 besides him if you wanted to make a formal complaint?

25 MR. ALBANESE: Say he curses you out.

M. VUCINAJ

1 A. Well, I was told that I'm reporting to Inspector
2 Bastendenbeck.

3 Q. Can you spell that?

4 A. Could I? I don't know. I believe
5 B-A-S-T-E-N-B-E-C-K. Something along those lines.
6 That's inspector.

7 Q. Where is he located?

8 A. She.

9 Q. She?

10 A. She's located at Transit Bureau Lex.

11 Q. And is that the same location where you are
12 assigned?

13 A. No.

14 Q. Is there anyone else you report to?

15 A. I was told I report to her.

16 Q. She gives you your job assignment for the day?

17 A. No.

18 Q. What does she do? Does she ever talk to you
19 during the week?

20 A. She's an administrator at Transit Bureau Lex.

21 Q. She doesn't contact you, you contact her?

22 A. We contact each other.

23 Q. What do you talk about?

24 A. It's relatively rare. I probably can count on my
25 hands how many times we've communicated in the past

M. VUCINAJ

1 11 months.

2 Q. What have you talked about?

3 A. Events that have taken place within the transit
4 system.

5 Q. What happens in the MTA Rail Control Center?
6 What does the MTA Rail Control Center do?

7 A. The Rail Control Center, you are talking from MTA
8 perspective or from a Transit Bureau NYPD perspective?

9 Q. From a Transit Bureau NYPD perspective?

10 A. We're a liaison for the two agencies for the MTA
11 and NYPD Transit Bureau Authority.

12 Q. In your capacity as a liaison, what do you report
13 to the Transit Bureau?

14 A. Events that take place within the transit system.

15 Q. What kind of events take place?

16 A. People that jump in in front of trains.

17 Q. Anything else?

18 A. Service interruptions.

19 Q. Anything else?

20 A. Criminal activities.

21 Q. Anything else?

22 A. When we say the Transit Bureau, we're talking
23 about the Transit Bureau wheel at this point.

24 Q. What does that mean?

25 A. Police officers that man cell phones so to speak.

M. VUCINAJ

1 And they are the ones who basically are repository on the
2 information and they also disseminate information.

3 Q. Do you work with them?

4 A. They also work at Transit Bureau headquarters, so
5 no.

6 Q. Why did you mention the Transit Bureau wheel?

7 A. Because that's who we communicate with.

8 Q. You get information from them?

9 A. No, well, sometimes we get information from them
10 but most of the time we are giving information to them.

11 Q. How do you get your information?

12 A. We're getting information from the staff that's
13 assigned at the rail control staff, MTA staff by monitoring
14 the radios.

15 Q. Did you have any interest in Transit?

16 A. No.

17 Q. Why do you think you were assigned to this unit,
18 this bureau?

19 A. Retaliation.

20 Q. Would you have considered it retaliation if you
21 were assigned to District 33?

22 A. Yes.

23 Q. Have there been any complaints about your
24 behavior from coworkers, from other coworkers while you've
25 been in the NYPD throughout your career, any complaints

M. VUCINAJ

1 about discrimination, harassment?

2 A. I believe I know one complaint that was filed
3 with EEO and this was, I believe, in April 2015.

4 Q. What did the complaint say?

5 A. I'm not fully familiar with it. I was made aware
6 of it by Office of Equal Employment Opportunity that I was
7 the subject of a complaint.

8 Q. Were you interviewed by them?

9 A. No, I was not.

10 Q. Do you know the disposition of the complaint?

11 A. It was closed.

12 Q. What was the person alleging, if you know?

13 A. The letter I got didn't give any specifics. It
14 just said about, you know, you are not allowed to
15 retaliate. There is a pending -- but there was nothing
16 that I recall -- it was two letters. One making me aware
17 of it and two, closing it out, never being interviewed.

18 Q. Any other complaints?

19 A. In 2009, as I stated earlier, the squad commander
20 of Special Frauds, there was a complaint then.

21 Q. What was the complaint about?

22 A. According to my interrogation by Internal
23 Affairs, I used a certain word.

24 Q. What was the person alleging?

25 A. I was being, you know, I guess discriminatory

M. VUCINAJ

1 like, I don't know, racist or disparaging.

2 Q. What was the disposition of that investigation?

3 A. I don't know if it was unfounded or
4 unsubstantiated.

5 Q. But you don't know for sure?

6 A. No. No. It's one of the two for sure because I
7 was never -- I was never formally disciplined and I got
8 promoted the next day.

9 Q. Anything else?

10 A. Specifically?

11 Q. Yes. Just your recollection.

12 A. I mean specifically what do you mean, anything
13 else?

14 Q. Any other complaints?

15 A. In -- as the Impact captain when I was in the 40
16 precinct I was also called in by Internal Affairs Bureau
17 group one. That falls under special investigations. They
18 investigate executives and it was alleged that, I believe,
19 I retaliated against police officers by putting them on
20 foot post if they wouldn't -- I'm paraphrasing, you know,
21 but along the lines that I gave them a lawful order if they
22 are conducting a lawful stop, a stop, question and frisk,
23 that they were to conduct a warrant check on that
24 individual and they said if, something like, if they didn't
25 do it, I put them on foot post.

M. VUCINAJ

1 But the thing is, they are all on foot post.

2 That's what impact is, impact is comprised as foot post and
3 as far as my giving them a lawful order, I conferred with
4 and basically affirmed my position with the NYPD Legal
5 Bureau and this was my second time calling them up in
6 regards.

7 Q. What was the disposition of that complaint or
8 that investigation?

9 A. Unsubstantiated. Unfounded. Like I said, I
10 didn't get any specific response but I wasn't formally
11 disciplined and nothing came out of it.

12 Q. Have you ever been formally disciplined by the
13 NYPD?

14 A. No.

15 Q. You previously mentioned charges and
16 specifications; what were those about? Did you ever
17 receive charges and specifications?

18 A. You are talking about with Deputy Inspector
19 Hsachas, at that time, no.

20 Q. I'm just talking about in general at the NYPD,
21 have you ever received charges and specifications?

22 A. Yes. I currently have charges and specifications
23 pending against me.

24 Q. What are they for?

25 A. Failure to notify the Internal Affairs Bureau

M. VUCINAJ

1 immediately, I believe, on ten occasions.

2 Q. Notify them of what?

3 A. Corruption. Misconduct. Serious misconduct.

4 Q. Did you do that? Did you fail to notify IAB?

5 A. I did notify them.

6 Q. Do you believe the charges and specifications are
7 warranted?

8 A. I elected the charges and specifications. I
9 chose them.

10 Q. What does that mean?

11 A. They basically gave as a result of the
12 interrogation conducted, I believe, April 13 and 14 of
13 2017, they gave me what we call command discipline. It's a
14 supervisor's complaint report which allows the maximum
15 penalty of ten days and they wanted to give me the maximum
16 of ten days and they agreed to lower it to seven. I didn't
17 accept the findings and I didn't accept the penalty and as
18 a result, charges and specifications. That's how that
19 works.

20 Q. What happens next? You said they are pending.
21 What is the next step of this process?

22 A. This was actually July of 2017. So this month
23 will be two years.

24 Q. And nothing has happened?

25 A. Nothing has happened. They are pending.

M. VUCINAJ

1 Q. Why do you think you received the command
2 discipline?

3 A. Retaliation.

4 Q. From who?

5 A. Executive member of the department.

6 Q. Who wrote the command discipline?

7 A. Retired Deputy Chief Chang, Ellen Chang.

8 Q. Where was she based, he or she based?

9 A. She was assigned to the Internal Affairs Bureau.

10 Q. So you believe IAB was retaliating against you?

11 A. Them as well as others.

12 Q. So IAB in consultation with other executive
13 members was retaliating against you?

14 A. Yes.

15 Q. Why did you believe IAB was retaliating against
16 you?

17 A. Because I was reporting criminal conduct,
18 corruption by the executive members of the NYPD.

19 Q. Was that prior to your retirement that you were
20 reporting this conduct, the second time you were going to
21 retire?

22 A. Yes. Yes.

23 Q. What is IAB's role in the NYPD? What do they do?

24 A. They investigate allegations of serious
25 misconduct and corruption, in part.

M. VUCINAJ

1 Q. In other part?

2 A. I know they perform integrity tests.

3 Q. What, to your knowledge, are integrity tests?

4 A. Integrity tests stage a scenario and see what the
5 responses are from members of the NYPD.

6 Q. Do people know about the integrity test before
7 they take one?

8 A. No.

9 Q. It's to determine if someone is honest?

10 A. Yes. They are insuring the integrity of the
11 department.

12 Q. Before you used the word "interrogation" with
13 IAB, is that the normal term or are you classifying it?

14 A. Interrogation.

15 Q. That's the term that is used?

16 A. Yes.

17 Q. Is the union involved with your charges and
18 specifications? Are they representing you?

19 A. They probably will be representing me.

20 Q. But they haven't said anything about the status?

21 A. Well, they called up a couple of months ago and
22 they said, you know, they are looking in into it.

23 MS. BLAIR: I'm just going to show you what

24 I think you'll know, be familiar already with.

25 Can we mark this as Exhibit A?

M. VUCINAJ

1 (Whereupon, the aforementioned document was
2 marked as Defendant's Exhibit A for
3 identification as of this date by the Reporter.)

4 Q. I'm showing you what's been marked as Defendant's
5 Exhibit A. Take a moment to look over this document and
6 tell me when you are ready?

7 A. (Complies.)
8 I'm ready.

9 Q. Are you familiar with this document?

10 A. Yes.

11 Q. What is it?

12 A. It's charges and specifications that were filed
13 on July 28, 2017.

14 Q. Did you write this document?

15 A. No, I did not.

16 Q. Do you know who wrote this document?

17 A. No, I do not.

18 Q. Here in paragraph one it says -- you previously
19 testified charges and specifications for failure to notify
20 Internal Affairs Bureau on Computer Misuse.

21 In paragraph two, there's ten separate incidents
22 where you failed to notify IAB in a timely manner. I just
23 want to clarify.

24 When you said you chose those charges and
25 specifications, what does that mean, you chose to move

M. VUCINAJ

1 forward with these allegations?

2 A. No. No. As I stated before, the interrogation
3 that was conducted April 13 and April 14 in 2017 resulted
4 in two separate things. One was a supervisor's complaint
5 report, which we also call a command discipline. And
6 Category B. And also letter instruction to my file.
7 That's what came out of it. They told me it's a ten-day
8 penalty, which is the maximum.

9 Q. And you disagreed with that penalty?

10 A. Correct.

11 Q. So then --

12 A. At which point they, from what I was told, Chief
13 Fox only went down to seven days, at which point I told
14 Deputy Inspector Hsachas basically, you know, not accepting
15 the findings and the penalty. And I'm electing charges and
16 specifications, meaning I'm going to have my day in court
17 in a departmental trial. That's how that works.

18 Q. When you had the interrogation, had you seen this
19 document before you?

20 A. No.

21 Q. When did you see this document?

22 A. Subsequent to me, you know, not accepting the
23 findings and the penalty of the command discipline.

24 Q. And then what is the process for reporting
25 corruption in the NYPD; is that in the handbook?

M. VUCINAJ

1 A. Yes.

2 Q. What does it say?

3 A. It says you notify Internal Affairs Bureau.

4 Q. Is there a time period that you need to notify
5 IAB?

6 A. They use the wording, if I recall correctly,
7 "upon becoming aware."

8 Q. Why was there any delay in you notifying IAB?

9 A. In which instance?

10 Q. Well, here it's alleging that there is a delay in
11 ten separate incidents?

12 A. Just ten separate incidents?

13 Q. Do you want to go through all of them? I was
14 looking for your general recollection of why there would
15 have been delay?

16 A. Okay. Well, in general?

17 Q. Yes.

18 A. When it came to the complaint reports, if I
19 reported it as soon as I saw it, they would have wrote it
20 off as human error. So me waiting for a little bit will
21 give the opportunity for those that are responsible
22 insuring the integrity of the words, that those human
23 errors "were corrected".

24 Q. And then when they weren't corrected?

25 A. I notified IAB.

M. VUCINAJ

1 Q. Who was responsible for correcting those errors?

2 A. It depends. You have the desk officer. You have
3 a supervisor. It can be one or two supervisors signing off
4 on the back. The one that approves and the one that signs
5 off. They can be one and the same. You have crime analysis
6 on a precinct level. You had the commanding officer. You
7 had the detective squad, which every command has.

8 In the case where there is an investigation, it
9 opens on the detective squad. They have the responsibility
10 to direct which classification to the proper
11 classification. You have the borough crime analysis team.
12 As I said, you had the commanding officer in the precinct.
13 You have -- it can be domestic violence. If it's a
14 domestic violence case, they have domestic violence
15 officers.

16 Q. There is a chain of command looking through
17 someone's work?

18 A. It's not so much as a chain of command, it's
19 chain reaction, numerous people look at it.

20 Q. At some point, for example, it gets passed, you
21 know, when you look at the desk officer's complaints, that
22 there was something wrong?

23 A. No. It's the desk officer. The police officers
24 filed the complaint report that they generated for a job
25 they either picked up, meaning someone waved them down or

M. VUCINAJ

1 comes through the 911 system through our dispatcher and
2 they respond.

3 They get the facts or the facts as they are told
4 to them and they write the report and those classifications
5 are supposed to reflect those facts of that specific
6 incident.

7 Q. When you got the report from that police officer,
8 you, I guess, knew there was something wrong with it?

9 A. No. I don't get a report. It goes into a
10 database. And through, like, daily review, you see them.
11 And if it's a significant enough of an event, there's also
12 an internal memo that's generated by the supervisor on the
13 scene. So you read those as well.

14 And this is the reason I'm mentioning that, is if
15 they are outside my command. That's the one I found out
16 about. The ones outside my command were the internal memos
17 that were disseminated by the commanding officers.

18 Q. Are you responsible for the things that happen
19 outside of your command?

20 A. Generally speaking, no.

21 Q. Why do you take an interest in things happening
22 outside of your command?

23 A. Because it's the integrity of the department. We
24 all have that responsibility.

25 Q. I just wanted to ask about paragraph three on the

M. VUCINAJ

1 second page?

2 MR. ALBANESE: Paragraph number three.

3 Q. If you want to take a moment and read it.

4 A. (Complies.)

5 Q. I just have a question about first sentence in
6 your interview. You remember this interview?

7 A. To some degree.

8 Q. And so you said that you had a hunch that there
9 was a possible misconduct pertaining to the logs reported
10 by the Internal Affairs Bureau. What does that mean? Are
11 these the different, what logs are we talking about here?

12 A. I don't know. I didn't write this.

13 Q. This paragraph says this is what you stated.
14 This is incorrect, under the provisions of Patrol Guide
15 206-13 and stated in connection with the aforementioned
16 incidents, he had a hunch that there was a possible
17 misconduct pertaining to the logs reported by him by the
18 IAB?

19 A. Yes.

20 Q. I'm just trying to understand what logs were
21 reported to you.

22 A. That's the thing. That's a summary. They are
23 not specific.

24 Q. To your recollection, what do you think you were
25 saying here?

M. VUCINAJ

1 A. I don't recall me saying those exact words.

2 Q. Do you recall what you actually said in the
3 interview?

4 A. I know in part as I said when we're talking about
5 complaint reports, I told him exactly what I told you, as
6 far as why I didn't report it immediately.

7 Q. When you didn't report it immediately, you had a
8 hunch there was something wrong and you were waiting for
9 confirmation from the supervisors?

10 A. I don't know if I used the word "hunch." It's
11 not a word I normally use. Once again, because I don't
12 know -- I think at that time I was telling -- I want to
13 give them the benefit of a doubt so that was another reason
14 why I didn't report immediately. I was hoping that these
15 things would be corrected. It turned out they were not.

16 Q. And then also the paragraph talks about queries
17 you would make outside Patrol Borough Queens South. Why
18 would you make those queries outside of your own patrol,
19 your patrol borough, why would you make inquiries of other
20 patrol boroughs?

21 A. Could you be more --

22 Q. "Furthermore, Captain Vucinaj admitted making
23 OMNIFORM queries outside of Patrol Borough Queens South for
24 his own curiosity"?

25 A. Yes.

M. VUCINAJ

1 Q. Why would you do that?

2 A. Can you be more specific.

3 Q. I can't be specific of why you would do it.

4 A. You are asking something about over three years
5 ago.

6 Q. I don't need any specific.

7 A. As far as the queries in general, I'm trying to
8 understand because they are taking almost ten hours of
9 interrogation and they are putting it in a couple lines.
10 So there was a lot discussed. So I can't answer to, you
11 know, a line that's vague.

12 Q. Did you make OMNIFORM queries outside of Queens
13 Borough South?

14 A. Yes.

15 Q. Why did you do that?

16 A. Because the discrepancies that were in Queens
17 South were taken outside of Queens.

18 Q. Is it normal to make inquiries about things
19 outside of their borough?

20 A. I can only speak for myself.

21 Q. Are you allowed to do that?

22 A. There's nothing that prohibits me from doing it.

23 Q. Why are you suing the NYPD?

24 A. Why?

25 Q. Yes.

M. VUCINAJ

1 A. Basically comes down to my repeated reporting of
2 the allegations, as well as me reporting discrimination,
3 employment discrimination, and them not properly doing
4 their mandates to investigate these claims, regardless if
5 there's merit in their eyes or not.

6 Q. Who isn't investigating?

7 A. The NYPD, I mean specifically.

8 Q. Specifically, who is not investigating?

9 A. What are we talking about, exactly who?

10 Q. You've made your reported allegations. Who have
11 you reported allegations to?

12 A. Which allegation?

13 Q. Go through all of them?

14 A. Are you talking about the whistle-blowers or the
15 discrimination allegation?

16 Q. All of them.

17 A. The whistle-blowing allegations, I reported them
18 to Internal Affairs, I'll probably say, probably exceeded a
19 hundred times. I reported it to my union. I reported it
20 to, pretty sure, Labor Relations, Employee Relations. The
21 various investigative units within the department.

22 Q. Anyone else?

23 A. I actually went to Inspector General for the
24 NYPD.

25 Q. Okay.

M. VUCINAJ

1 A. That's mainly it, I mean, that I can think of at
2 this given moment.

3 Q. What was your union's response to your
4 whistle-blower allegations?

5 A. Specifically?

6 Q. Yes.

7 A. Well, they're a conflict of interest because I'm
8 making the allegations against other members of the union.

9 Q. They said it was a conflict of interest?

10 A. In essence.

11 Q. What did they say to you?

12 A. What did they say?

13 Q. Yes.

14 A. They didn't really say anything. Well, one,
15 specifically the vice-president Captain Chris Monahan in
16 June, I believe, of 2016 where I told him I wanted to be
17 transferred because I can't take the hostile work
18 environment, I'm not going to tolerate any more of the
19 falsification of criminal complaint reports, he's like, oh,
20 that's what you believe.

21 Q. What did you want the union to do?

22 A. In what context?

23 Q. In complaining to the union, what action did you
24 want them to take?

25 A. I basically wanted to be put in a position where

M. VUCINAJ

1 I can do my job without being retaliated against and
2 without having to deal with hostility and contempt.

3 Q. Did you want them to facilitate a transfer?

4 A. Yes.

5 Q. At what point did you want to transfer?

6 A. At what point?

7 Q. Yes.

8 A. Specifically in the context of what I was just
9 talking about, that was in June of 2016. And also prior to
10 that when I was the midnight duty captain, multiple times.
11 Because I did not request a transfer to Queens to become a
12 midnight duty captain.

13 Q. Did you ever apply for a transfer from Queens?
14 Did you ever ask to be transferred from Queens?

15 A. No. To the union, yes.

16 Q. With regards to your hundred complaints to IAB,
17 what were the results of those investigations or were there
18 any investigations that you know of?

19 A. See, the way it's supposed -- from what I was
20 explained is, I'm supposed to be made aware of the
21 findings --

22 Q. Okay.

23 A. -- of these allegations. And I'm not made aware
24 of them as the complainant because that's how they labeled
25 me, as the complainant.

M. VUCINAJ

1 Q. You don't know what's happened with them at all?

2 A. No.

3 Q. Let's talk about your employment discrimination
4 allegations.

5 Who have you complained to?

6 A. The Equal Employment Opportunities Office of the
7 NYPD, specifically a detective that initially took my case.
8 Inspector, he's the commanding officer, the EEO office,
9 Inspector Cassidy, I believe Michael Cassidy. At the time,
10 the executive officer of EEO.

11 Q. Outside of the EEO, anyone else?

12 A. I believe it was -- I believe it was Labor
13 Relations also and Employee Relations. They changed it
14 January 2018. EEO became Equity Inclusion Bureau so the
15 commanding officer, I believe he's a deputy inspector, I'm
16 trying to remember his name.

17 Q. What were the results of your complaint to the
18 NYPD EEO?

19 A. They didn't investigate.

20 Q. How do you know?

21 A. Because they told me.

22 Q. What did they tell you?

23 A. Well, initially I got a letter from then the
24 Deputy Commissioner of EEO, Mrs. Ziegler, and she told me
25 in the letter, which I believe I provided to you, that due

M. VUCINAJ

1 to the fact I raised retaliation as, you know, into this
2 discrimination, that my complaint has been deferred to, I
3 don't know if that was the right word, deferred, but it was
4 transferred over to department's advocate's office.

5 Q. Which complaint -- how many complaints have you,
6 formal complaints have you made to the EEO?

7 A. In what context?

8 Q. How many times have you complained to the EEO?

9 A. Specifically about employment discrimination?

10 Q. Yes.

11 A. Once.

12 Q. Only one time? What did you complain of?

13 A. Once in the context of me being denied promotion
14 opportunities.

15 Q. Denied promotion opportunities?

16 A. Yes. Because prior to that in April of 2015 I
17 complained about an active website owned and operated at
18 the time by two deputy inspectors of the NYPD where
19 disparaging and scurrilous statements made about me as well
20 as other, you know, racial complaints on that website.

21 Q. Would that count as complaints to the EEO?

22 A. Well, that definitely generated EEO and I believe
23 there was one more in April in relation to that same
24 website along the same lines again.

25 Q. Are you alleging that you were discriminated

M. VUCINAJ

1 against at the NYPD?

2 A. Yes.

3 Q. And what type of discrimination?

4 A. Employment discrimination.

5 Q. Were you discriminated against because of your
6 race?

7 A. I believe in part.

8 Q. In part. How so?

9 A. In my amended complaint that I filed, looking at
10 the statistics.

11 Q. Okay. In what capacity? What were you
12 discriminated against?

13 A. My national origin.

14 MS. BLAIR: That's not what I'm asking.

15 Q. What were you denied from the NYPD?

16 A. An opportunity for a commanding officer position
17 and/or promotion, discretionary promotions.

18 Q. Can you get a discretionary promotion from a
19 captain?

20 A. That's the only time you can get it at the start.
21 That's the first one.

22 Q. If you got the discretionary promotion, what
23 would you be promoted to?

24 A. Normally, it could be deputy inspector. That
25 would be the first one.

M. VUCINAJ

1 Q. Where would you be assigned? Do you want to be
2 assigned anywhere specifically?

3 A. Where I would be assigned would be at the
4 discretion of the department or the needs of the
5 department.

6 Q. Would you want to be assigned anywhere
7 specifically?

8 A. Counterterrorism; Intelligence Bureau.

9 Q. Currently, are you closed from going to those
10 bureaus?

11 A. Yes.

12 Q. How?

13 A. One, pending charges. Because -- also Internal
14 Affairs Bureau, that's another one, you know, I had
15 interest in. I never was basically accepted, so to speak.
16 In some of the postings they may have and they don't have
17 postings for all of them because usually these positions
18 aren't posted but they request that you have, meets above
19 standards consistently throughout evaluations, which one of
20 mine don't. Or actually two because -- two of the four are
21 just meet standards.

22 Q. Those meet standards are discriminatory?

23 A. Well, one on them, due to the fact that it was
24 during the leave, 15 and a half months. That's normal.
25 That wouldn't really be held against me. The one previous

M. VUCINAJ

1 to that in 2012, that one was, in part, retaliation.

2 Q. By who?

3 A. Well, the rater for that was retired Deputy Chief
4 Catalina. He was then the commanding officer of the 44
5 precinct.

6 Q. Why was he or she retaliating against you?

7 A. Once again, it's part of the hostile work
8 environment I had.

9 Q. In 2012 where were you?

10 A. When in 2012?

11 Q. When you were rated by Deputy Chief Catalina?

12 A. In 44 precinct. That was after my reassignment
13 from the Personnel Bureau writing the captain's promotional
14 exam.

15 Q. Prior to 2012 had you made complaints about
16 corruption?

17 A. Forms of corruption, yes.

18 Q. What parts?

19 A. Specifically I can't remember.

20 Q. Generally what do you remember?

21 A. Well, the one instance with the sergeant that was
22 basically hiding timesheets from me when I was trying to
23 review them.

24 Q. Why would the executives retaliate against you
25 because the sergeant was hiding timesheets?

M. VUCINAJ

1 A. I didn't say that.

2 Q. Why would the executive officers be retaliating
3 against you in 2012?

4 A. Because I actually, one, would report misconduct
5 in general. I would write supervisor's complaint reports
6 against their officers, such as in the case of Catalina.
7 One of his officers left his gun in an open room, in an
8 open filing cabinet. His loaded gun, his whole gun belt,
9 basically.

10 Q. You wrote a complaint against Catalina's officer?

11 A. Yes.

12 Q. Did he come to you and talk to you about it,
13 Catalina?

14 A. No. They were also abusing overtime in the 44
15 precinct.

16 Q. Who was abusing overtime?

17 A. Members of the 44 precinct.

18 Q. Police officers, lieutenant, captains?

19 A. Police officers, sergeants, lieutenants.

20 Q. And did Catalina talk to you about that?

21 A. No.

22 Q. What is your race? What do you identify as your
23 race?

24 A. Well, it's what -- it's what society identifies
25 me as.

M. VUCINAJ

1 Q. What does society identify as your race?

2 A. White.

3 Q. Do you disagree with society's characterization
4 of your race?

5 A. I don't think it's a matter of agreeing or
6 disagreeing. It's --

7 Q. What would you classify the color of your skin
8 as?

9 A. By society standards, white.

10 Q. What is your national origin?

11 A. Albanian.

12 Q. Do you believe that you're discriminated against
13 because you are white?

14 A. In part, yes.

15 Q. Why in part?

16 A. Because December 23rd of this year I'll have ten
17 years in the rank of captain. Almost 26 years with the
18 NYPD. And I have qualifications and experience that many
19 that are getting positions of promotion or actually getting
20 promotions which also includes a disciplinary record that
21 far outweighs theirs and nonetheless I have not been given
22 an opportunity, let alone actually getting a discretionary
23 promotion or getting a commanding officer position which
24 would lead to promotion.

25 At times it's also executive officer's positions

M. VUCINAJ

1 too. It all depends on what assignments it is but,
2 generally speaking, a commanding officer position.

3 MS. BLAIR: Forgot something and it came
4 back and it will come back to me.

5 THE WITNESS: It happens to all of us.

6 Q. You said that these promotions are discretionary?

7 A. Correct.

8 Q. It's within whose discretion to promote you?

9 A. Police Commissioner O'Neill. NYPD Police
10 Commissioner O'Neill.

11 Q. How does he decide, to your knowledge, who to
12 promote? Are there any recommendations?

13 A. I believe there are recommendations, yes.

14 Q. You previously said there was a more formal
15 process in the past. Is there a more formal process?

16 A. In comparison.

17 Q. What is this new process?

18 A. The executive advancement process, I believe
19 that's what they call it.

20 Q. What do you have to do?

21 A. You have to submit your resume as well as a
22 personal statement.

23 Q. For how many years has that been around?

24 A. I believe three years now. Just about three
25 years.

M. VUCINAJ

- 1 Q. Have you applied?
- 2 A. The most recent one, yes.
- 3 Q. When was that?
- 4 A. I submitted my application at the end of November
- 5 of 2018.
- 6 Q. Why didn't you apply the other previous years?
- 7 A. 'Cause that's when I was trying to get off
- 8 midnight. Forget about trying to get a commanding officer
- 9 position or promotion. I knew I had no chance supposedly.
- 10 Q. Have you had any response since November 2018?
- 11 A. I received three e-mails from the First Deputy
- 12 Commissioner Benjamin Tucker. And it doesn't -- I don't
- 13 believe they are specifically to me but they are just to
- 14 candidates in general.
- 15 Q. What do they say?
- 16 A. In essence, I have not been selected.
- 17 Q. Okay. Do you have to reapply every year?
- 18 A. I believe that's -- that may be the case, I'm not
- 19 a hundred percent sure.
- 20 Q. To your knowledge, are you still a candidate for
- 21 executive promotion or the executive advancement?
- 22 A. No. As I said, those e-mails were saying that I'm
- 23 not on the matrix.
- 24 Q. Can you apply again?
- 25 A. Any one of the executive ranks can apply.

M. VUCINAJ

1 Q. When you applied the first time in November 2018,
2 was that a set time period or did you just send in your
3 resume?

4 A. No. It's a set time period. It's an open
5 process.

6 Q. It's safe to assume that in November 2019 you can
7 apply again?

8 A. I guess, yes.

9 Q. Were you ever interviewed while you went through
10 this process since November 2018?

11 A. Specifically for the executive advancement
12 process, no.

13 Q. And this executive advancement process would only
14 get you to the discretionary promotion; is that correct?

15 A. And/or commanding officer position.

16 Q. It's both?

17 A. Well, you were able to select one or the other or
18 both.

19 Q. Did you select both?

20 A. Of course I did.

21 Q. And the commanding position specifically, as you
22 stated in the beginning, precinct?

23 A. Transit District Police Service Area.

24 Q. Are these now the only ways you can be promoted
25 to those positions?

M. VUCINAJ

1 A. No.

2 Q. There still are discretionary promotions?

3 A. Of course, yes.

4 Q. Did you believe that you -- we talked about
5 instances of hostile work environment.

6 Do you believe that you were harassed or suffered
7 a hostile work environment because of your race?

8 A. To some degree, yes.

9 Q. Why?

10 A. Discretionary.

11 Q. Why?

12 A. Some comments made.

13 Q. What type of comments?

14 A. When I was in then Patrol Borough Bronx,
15 commanding officer, then Assistant Chief Gomez, who later
16 became Chief of Department as well as Deputy Chief
17 McCarthy -- there's multiple McCarthys, I forget his name,
18 I'm sitting in the office. I don't recall the context but
19 I was in the office and they said, oh, we heard you
20 Albanians don't forget anything.

21 Q. What did you respond?

22 A. I'm not even sure if I gave a response because I
23 was a little taken aback because they specifically said
24 "you Albanians."

25 Q. Had you ever told anyone you were Albanian?

M. VUCINAJ

1 A. Of course. Everyone.

2 Q. Do you Albanians have a stereotype of a good
3 memory?

4 A. Not that I am aware of.

5 Q. Did you find that discriminatory?

6 A. In part.

7 Q. Why?

8 A. Not discriminatory in the sense, like there's no
9 need to mention, you know, my national origin.

10 Q. Okay. Do you believe that Assistant Chief Gomez
11 ever discriminated against you?

12 A. Yes.

13 Q. How did he discriminate against you?

14 A. Because I was called in by, I believe, then he
15 was Deputy Chief Boyce, who retired as Chief of Detectives,
16 he wanted me as one of his own captains for the detective
17 bureau in the Bronx.

18 Q. Gomez or Boyce?

19 A. Boyce. And he told me, I spoke to Chief Gomez
20 and you are not even number three or number four in line to
21 get a command. That's what he specifically told me. I had
22 no opportunities basically to become a commanding officer.

23 Q. Did you talk to Gomez about that?

24 A. No, I did not.

25 Q. Who is the person that said, like, we heard you

M. VUCINAJ

1 Albanians don't forget anything?

2 A. That was Chief Gomez.

3 Q. Any other incidents with Chief Gomez?

4 A. No.

5 Q. Do you believe that Deputy Chief McCarthy
6 discriminated against you?

7 A. Well, in the fact that he was sitting in the
8 conversation and he didn't contest to, you know, the
9 comment, we have a zero tolerance policy.

10 Q. Did you report the comment to anyone?

11 A. No, I did not.

12 Q. What role did Assistant Chief Gomez play in you
13 transferring to other borough assignments?

14 A. You got to be specific, please.

15 Q. What was Assistant Chief Gomez's, like, job
16 responsibilities in the patrol borough of the ranks?

17 A. He's my commanding officer. He's the number one
18 in the Bronx, as far as executives go. As I said earlier,
19 every Patrol Borough has a commanding officer. And he's
20 responsible for that borough and all the commands from
21 Patrol Services Borough, he's responsible for them.

22 Q. What was your rank at the time you were --

23 A. Captain.

24 Q. You were captain?

25 A. Yes.

M. VUCINAJ

1 Q. I'm going to show you what's going to be marked a
2 Exhibit B. It's a copy of the complaint.

3 (Whereupon, the aforementioned document was
4 marked as Defendant's Exhibit B for
5 identification as of this date by the Reporter.)

6 THE WITNESS: The amended complaint.

7 MS. BLAIR: Yes. We'll go over it on the
8 record.

9 Q. I'm showing you what's been marked as Exhibit B.
10 Please take a moment and familiarize yourself with the
11 document and tell me when you are ready.

12 A. (Complies.)

13 I'm ready.

14 Q. Are you familiar with this document?

15 A. Yes.

16 Q. What is it?

17 A. It's my amended complaint in regards to case
18 number 18-CV-07606.

19 Q. Did you write this document?

20 A. Yes, I did.

21 Q. Is everything you say in this document true, to
22 the best of your knowledge?

23 A. Upon information and belief, yes.

24 Q. Please turn to page three, paragraph one.

25 MR. ALBANESE: When you say "three," you

M. VUCINAJ

1 mean third on the bottom or the third actual
2 page?

3 MS. BLAIR: I'm referring to the page
4 numbers but this is not the one I want. Bear
5 with me. Sorry.

6 Q. Paragraph one on page three where it says
7 "retaliatory action by the NYPD."

8 A. Paragraph one?

9 Q. Yes. I want to refer you to the first paragraph
10 where it says you formally filed an employment
11 discrimination complaint with Equal Employment Opportunity
12 Office on January 12, 2018; is that accurate, you filed a
13 complaint?

14 A. With the NYPD, yes.

15 Q. You say here, if you continue to the next
16 sentence, "that subsequently the plaintiff, pro se, was
17 discriminated against again whereby they both didn't
18 investigate the discrimination complaint."

19 What do you mean by that part of the sentence?

20 A. I was filing a complaint for discrimination and I
21 feel discriminated against because they didn't investigate
22 it.

23 Q. This complaint, what were you alleging in case
24 number 18S.18?

25 A. It's the original complaint.

M. VUCINAJ

1 Q. What were you alleging in your equal opportunity?

2 A. Employment discrimination.

3 Q. Is this the failure to promote one or is this the
4 one about the message board?

5 A. Oh, no. This is specifically about employment
6 discrimination. It had nothing to do with the messaging
7 board.

8 Q. Why do you believe that they failed to
9 investigate? What do you base that opinion on?

10 A. Patrol guides procedure 258.36 specifically
11 states their mandate is supposed to investigate it. They
12 did not investigate it.

13 Q. How do you know that?

14 A. Because they told me, as I said earlier.

15 Q. What did they specifically say?

16 A. They said due to the fact, you know, I'm claiming
17 retaliation that your complaint is being deferred to
18 department advocates office.

19 MS. BLAIR: They are not going to
20 investigate. I want to show you what's going to
21 be marked as Exhibit C.

22 (Whereupon, the aforementioned document was
23 marked as Defendant's Exhibit C for
24 identification as of this date by the Reporter.)

25 Q. I'm showing you what's been marked as Exhibit C.

M. VUCINAJ

1 Take a moment to review the document?

2 A. (Complies.)

3 I'm ready.

4 Q. What is this document?

5 A. This is basically a document coming from Deputy
6 Commissioner Employment Opportunity, Ms. Ziegler, saying
7 that I need to submit my request in order to move in any
8 investigation in this matter.

9 Q. And then did you submit those documents?

10 A. A hundred percent I did.

11 Q. Happened after you submitted the documents?

12 A. That's when I told you I got the subsequent
13 letter from Ms. Ziegler, stating what I said earlier.

14 Q. What documents did you submit?

15 A. I believe there were two or three forms,
16 department forms for filing EEO complaint.

17 Q. Did you ever go in for an interview?

18 A. No, I did not.

19 Q. Why didn't you go in for an interview?

20 A. I didn't feel comfortable.

21 Q. Why not?

22 A. Because I didn't feel comfortable.

23 Q. Comfortable with the EEO office?

24 A. Comfortable with the department because they
25 retaliate. They have history of retaliating.

M. VUCINAJ

1 Q. The EEO office?

2 A. The NYPD.

3 Q. Okay. Did you --

4 A. As well as their failure to actually investigate
5 my previous one with the message board.

6 Q. Did you tell the EEO office that you felt
7 uncomfortable interviewing with them?

8 A. No. They just asked me you want to come in. I
9 told them no.

10 Q. But you did submit the forms?

11 A. A hundred percent. I scanned it and e-mailed it
12 to a detective.

13 Q. Did the response you received reference that you
14 had failed to come in for an interview?

15 A. That I do not recall. This one obviously does.
16 The subsequent one was strictly in relation to them not
17 investigating.

18 MS. BLAIR: You can put that to the side.

19 Q. If you can refer to page three and then paragraph
20 two.

21 A. (Complies.)

22 Q. Is this the other complaint you made to the EEO?

23 A. Correct. Or, I believe, like I said, I believe I
24 did twice, at least twice where I generated an EEO log
25 number.

M. VUCINAJ

1 Q. You say there was one active male Italian deputy
2 inspector. Do you know who that was specifically?

3 A. Yes.

4 Q. Who was that?

5 A. Deputy Inspector Anthony Raganella.

6 Q. Did you ever interact with him while you were at
7 the NYPD?

8 A. Yes.

9 Q. In what capacity?

10 A. When I was assigned to the IRT we were located
11 within the same facility. That was back in 2012.

12 Q. Did you specifically work together or you were
13 just in the same building?

14 A. Just in the same building.

15 Q. And then the second person, do you know who that
16 was?

17 A. He's retired now. He was then Deputy Inspector
18 Edward Carrasco.

19 Q. Did you ever work with him?

20 A. No.

21 Q. Were these comments made by these two individuals
22 on the message board?

23 A. No.

24 Q. What was the relationship these two individuals
25 had with the message board?

M. VUCINAJ

1 A. They own and operate.

2 MS. BLAIR: I'm going to show you what's
3 going to be marked as Exhibit D.

4 (Whereupon, the aforementioned document was
5 marked as Defendant's Exhibit D for
6 identification as of this date by the Reporter.)

7 Q. I'm going to show you what's been marked as
8 Exhibit D. Take a moment to review and tell me when you are
9 ready.

10 A. (Complies.)

11 Q. Is the rising star promotion active board the
12 same board referenced in your EEO complaint?

13 A. Yes, it is.

14 Q. This letter here says that the information was
15 removed on the last sentence of the first paragraph; is
16 that correct?

17 A. Yes.

18 Q. That's what it says?

19 A. Yes.

20 Q. Do you agree with that statement?

21 A. No.

22 Q. Why not?

23 A. Because you can go on that message board today
24 and you still can find personal text and professional
25 attacks against me.

M. VUCINAJ

1 Q. Are those attacks the same ones that you had
2 reported?

3 A. Some are. Well, some came -- remember, it's a
4 message board. I reported the ones at that given time.

5 Q. Were those removed?

6 A. Three months later.

7 Q. But they were removed?

8 A. Three months later.

9 Q. And there are new attacks?

10 A. There were attacks in 2015 that went on for
11 several years and they are still there today, as I sent
12 them to you in an e-mail. I sent them to your former
13 colleague.

14 Q. Some of the attacks were removed three months
15 after you reported them?

16 A. July 2015.

17 Q. Some of the attacks have not been removed?

18 A. A lot of them. Most of them.

19 Q. What responsibility do you think the NYPD has to
20 remove these comments from the message board?

21 A. It's two-fold. It's owned and operated by, at
22 that time, two active deputy inspectors, members of the
23 executive cops. And it's being viewed and interacted by
24 active members of the NYPD in all ranks. Three, the NYPD
25 has a social policy precluding them from such activities.

M. VUCINAJ

1 Q. What effect do you think this message board has
2 on your standing in the NYPD?

3 A. Once again, retaliation; hostile work
4 environment. It just reinforces and exacerbates.

5 Q. Do you know who's making those comments?

6 A. I do not.

7 Q. Have there been any comments recently?

8 A. Not that I am aware of.

9 Q. When was the last time there were comments that
10 you saw?

11 A. I believe last year.

12 Q. What did they say?

13 A. I don't recall specifically.

14 Q. Un-specifically?

15 A. I mean just in general comments.

16 Q. Are the comments made about your performance?

17 A. In general, yes.

18 Q. Are they made about your race?

19 A. No.

20 Q. Are they made about your national origin?

21 A. Yes.

22 Q. What is it about your national origin?

23 A. One example that comes to mind is, so it's okay
24 to hate all Albanians.

25 Q. How do you know that references you?

M. VUCINAJ

1 A. Because they were talking about me.

2 Q. Does the message --

3 A. And they put the Albanian flag up there.

4 Q. Does the message board also have your name within
5 it?

6 A. Within the writings, yes. And some of the title
7 -- actually they don't use my name but one guy decided to
8 call me Captain Insano.

9 Q. Who do you think is writing these comments?

10 A. Active members of the NYPD.

11 Q. How do you know they are active members of the
12 NYPD? Is there a special -- do you have to get verified to
13 be on the message board?

14 A. I don't know the process. I did not but it is
15 open to the public. You don't need a password to access
16 it, to read.

17 MS. BLAIR: You can put that aside.

18 Q. I want to look at page four paragraph one. Here
19 you reference protected classes and lists ethnic Irish and
20 Italian.

21 Why do you consider those protected classes?

22 A. You see, I put, are there truly protected
23 classes.

24 Q. Why do you say that?

25 A. Because in this specific paragraph -- let's not,

M. VUCINAJ

1 you know, let's give it full context. And it says "the
2 truly protected classes, i.e. ethnic Irish or Italian,
3 black, Asian or female as commanding officers and promoted
4 them at least once despite having serious disciplinary and
5 arrest records/histories. E.g. did domestic violence
6 resulting in demotions, suspensions, modification, guilty
7 of charges and specifications". Or a combination thereof;
8 cause for dismissal/termination by an employer, not
9 promotion, especially in a law enforcement agency.

10 Q. Okay. My question was:

11 Why do you consider ethnic Irish and Italian to
12 be protected classes?

13 A. Specifically in this paragraph that we're talking
14 about, as I stated, people in normal occupations would be
15 terminated, would have been let go from their job but in
16 fact, the opposite conversely has happened. They've been
17 given commanding officer positions and/or promotions
18 despite having a serious disciplinary record as opposed to
19 me, I don't have a disciplinary record.

20 Q. Do you think you are liked in the NYPD? Do you
21 think you are liked by your colleagues?

22 A. Specifically?

23 Q. What is your impression? Do you get along with
24 your colleagues?

25 A. I get along great where I'm at now.

M. VUCINAJ

1 Q. Previously?

2 A. Previously I had no problems over there either.

3 Q. I just want to clarify, are you alleging that you
4 are discriminated because you are white or because you are
5 Albanian?

6 A. That's why I said in part, it was a combination.

7 Q. Both white and Albanian; is that correct?

8 A. Because there are Irish and Italian that are
9 getting promoted but yet --

10 Q. There's a favoritism for Irish and Italian
11 people?

12 A. Yes.

13 Q. If you look at page five, paragraph 44, it's the
14 one that hangs over, so it's this very top area I'm talking
15 about.

16 Where did you get this data, first off?

17 A. As I stated earlier, personnel orders.

18 Q. What is a personnel order?

19 A. Personnel orders are published by the chief of
20 personnel office and personnel orders, they are everything
21 in regards to personnel. So transfers, promotions,
22 demotions, disciplinary results like charges and
23 specifications, termination, resignations.

24 Q. How did you get these personnel orders?

25 A. Everyone in the Police Department has access to

M. VUCINAJ

1 them. It's on the intranet. They are not private records.

2 Q. In the personnel orders does it specify a
3 person's national origin?

4 A. No.

5 Q. For the person in the middle, you list her as
6 female white Italian. How do you know she's Italian?

7 A. By her last name.

8 Q. And then the person following, you have mail
9 white Irish; how do you know he's Irish?

10 A. By the last name.

11 Q. Are these assumptions or how did you find out
12 that information? You are going by their last name to
13 decide their national origin?

14 A. I know them. I've seen them physically as well
15 so I've seen them.

16 Q. Have you ever asked them what their national
17 origin is?

18 A. No.

19 Q. So you believe that, I'm assuming, you can
20 correct me if I'm wrong that, for example, the middle
21 person was promoted because she's Italian; is that what you
22 are alleging?

23 A. In part.

24 Q. What in other parts, because she's also a woman?

25 A. Nepotism, and also because she's a woman as well.

M. VUCINAJ

1 Q. You say nepotism; do you know who this woman
2 specifically is?

3 A. Yes. Nepotism.

4 Q. Why nepotism?

5 A. Her father's a retired chief from the NYPD.

6 Q. And then the person below, the male, do you know
7 that he was promoted just because he's Irish?

8 A. In part.

9 Q. What's the other part?

10 A. I believe he also had a father that was high
11 ranking. I'm not a hundred percent sure but mainly because
12 he's Irish. I can't confirm the other part.

13 Q. Did you apply for either of these positions to
14 deputy chief?

15 A. You don't apply for, per se, deputy chief
16 position. Those are three promotions there. To get from
17 captain to deputy chief, it's three promotions.

18 Q. I understand.

19 A. That's why I put in there three promotions.

20 MS. BLAIR: I understand because it's not
21 deputy inspector.

22 Q. Paragraph five below it, I just want to go
23 through this list. Why are the six candidates here listed
24 just as well?

25 A. I believe one or two of them, I know their actual

M. VUCINAJ

1 ethnic origin and the others I'm going on the belief were
2 their last names as far as.

3 Q. What do you classify just as white?

4 A. Well, as we said, social norms would say I'm
5 white.

6 Q. I just want to understand the difference. You
7 show when someone is Italian or Irish but if they are not
8 Italian or Irish, they are just white?

9 A. Yes. Because they are white Italian and white
10 Irish.

11 Q. They are not getting the opportunities that other
12 people are getting; is that correct?

13 A. Who?

14 Q. These specific people?

15 A. In paragraph five?

16 Q. Yes. Because here you are say i.e. B,
17 unprotected class?

18 THE WITNESS: Yes.

19 Q. How are you grouping this class?

20 A. Basically falling outside of the pattern of
21 Irish, Italian, blacks, Asian and or female. They don't
22 fit in those categories.

23 Q. Are there any other Albanians in the NYPD?

24 A. Yes, there are.

25 Q. Are there any other Albanians that are deputy

M. VUCINAJ

1 inspectors?

2 A. No.

3 Q. What is above deputy inspector?

4 A. There is no one above captain.

5 MR. ALBANESE: Albanians?

6 THE WITNESS: Specifically Albanians.

7 Q. Do any of those people that you know of have the
8 number of years experience that you have?

9 A. (No Response.)

10 MS. BLAIR: Let me rephrase.

11 Q. So you have about 30 years on the job?

12 A. No. I have 25 and a half next month.

13 Q. 25 and a half. Is there anyone else above 25 and
14 a half of Albanian national origin that you know of?

15 A. In any rank?

16 Q. Yes. I'm just asking in seniority.

17 A. In any rank. I believe currently I have the most
18 seniority in the NYPD, I believe.

19 Q. That's fine.

20 A. There actually may be a sergeant. A Sergeant
21 Yurichi. He may have a little bit more time. I'm not a
22 hundred percent sure but I believe if not the top, I'm
23 definitely the top, as far as executive rank a hundred
24 percent.

25 Q. In the personnel order does it list someone's

M. VUCINAJ

1 race like white, black, Hispanic?

2 A. It doesn't.

3 Q. How did you find out that information?

4 A. Once again, I'm basing it off of last names and
5 also interactions with people I've seen. Other people I've
6 seen photos of.

7 Q. The people listed here are only people you've
8 seen photos or interacted with; is that correct?

9 A. Or their last name. And/or their last names.
10 Some of them I didn't see. I don't remember which ones
11 specifically I referenced.

12 Q. It could be accurate that the six men listed here
13 are, in fact, white?

14 A. No. I believe they are all white.

15 Q. Why did you believe that?

16 A. Because, once again, as far as I was talking
17 about ethnicity, where I'm not sure as far as them being
18 male whites, upon information and belief they are white.

19 Q. What is that based on?

20 A. As I told you, as far as my direct interactions
21 seeing them at meetings and details.

22 Q. And last name?

23 A. Yes. And/or another source. They have a picture
24 in the newspaper or they have it in their command profile,
25 they have their pictures.

M. VUCINAJ

1 Q. And then I asked and you said you didn't see
2 pictures or interact with every single person that you've
3 included in this paragraph?

4 MR. ALBANESE: Under paragraph five.

5 A. If I had the names, I can tell you more precisely
6 but at that time, upon information and belief, when I put
7 it down, they are male white.

8 Q. Paragraph six. Can you explain to me the first
9 paragraph, the first sentence or paragraph where you say
10 that during the period of January 1, 2017 through
11 January 11, 2019 the NYPD designated a total of 103 of
12 commands units and/or other title assignments.

13 Can you just clarify? Are we talking about the
14 commanding officer and then also possibly getting like a
15 precinct Transit Borough position? What are you specifying
16 here?

17 A. Okay. So during this time period, January 1 of
18 2017 until the time of this amended complaint, January 11,
19 2019, I looked at all the personnel orders. And I looked
20 at who was getting assigned commanding officer positions.
21 That typically is a steppingstone to getting promoted or
22 actually getting the position, you get promotion.

23 Q. So the people, there were 103 people in those
24 personnel orders; is that correct?

25 A. Yes.

M. VUCINAJ

1 Q. And they got a commanding officer position; is
2 that correct?

3 A. I believe just about all of them did, yes.
4 Because, as I stated earlier, some executive officer
5 positions also lead to promotions?

6 Q. They could have been executive officer or
7 commanding officer?

8 A. The vast majority of commanding officers.

9 Q. That's a specific you are assigned to the
10 specific borough, to command?

11 A. No. It also could be within the detective
12 bureau. Within risk management bureau. Within other
13 bureaus but the traditional one is Precinct Transit
14 Districts. That's a traditional route to take.

15 Q. We're not talking borough promotion to, like,
16 deputy inspector?

17 A. Yes.

18 Q. So this list of 103 people, also some of them
19 could have been promoted to deputy inspector?

20 A. Not could have, they did.

21 Q. I just want to clarify. They were part of the
22 list if they were promoted to deputy inspector?

23 A. Yes. I also noted here the promotions from the
24 time they got the position to the time they got the first
25 promotion, some of them got subsequent promotions, multiple

M. VUCINAJ

1 promotions. It's all listed in 103.

2 Once again, that was at the time of the amended
3 complaint because things have [changed since then.

4 Q. Are you considered an executive officer in your
5 position currently?

6 A. Anyone in rank captain or above is an executive
7 officer. An executive.

8 Q. An executive?

9 A. An executive.

10 Q. Executive?

11 A. Yes.

12 Q. You would not consider yourself an executive
13 officer in your current position?

14 A. No. Because I asked that to Inspector Portis and
15 Inspector Portis, in our conversation of August of 2018,
16 said, no, you are not.

17 Q. That you're captain?

18 A. That's my title. No ranks, no titles, no
19 responsibilities.

20 Q. Is there any indication that you'll be moving
21 from that position? Did you apply for a transfer?

22 A. Last week I applied for a transfer.

23 Q. Where do you want to be transferred?

24 A. I put Risk Management Bureau.

25 Q. Why are you interested in the Risk Management

M. VUCINAJ

1 Bureau?

2 A. Because I can see myself doing a lot of great
3 work over there.

4 MS. BLAIR: That brought me back to my
5 question I forgot.

6 Off the record.

7 (Whereupon, an off-the-record discussion was
8 held.)

9 Q. Briefly, I just want to go through this list.
10 We're not going to go through the whole thing but I think I
11 understand now but just to clarify one last time.

12 The first person here you describe as male and
13 Irish; what is your determination of those characteristics
14 based on?

15 A. Okay. Well, going by the name again.

16 Q. Anything else?

17 A. Well, most of them with the name so I can't
18 really, you know, just from looking at this, there's 103 of
19 them plus at this point --

20 Q. Then here you say he was designated the executive
21 officer of the Joint Terrorism Task Force on 4/17 2017.

22 In 2017, to your recollection, was there the
23 executive advancement process?

24 A. Yes.

25 Q. But you hadn't applied during that year?

M. VUCINAJ

1 A. Yes, and this wouldn't fall underneath it either.

2 Q. Why not?

3 A. As I told you, the executive advancement process
4 is for discretionary position and/or commanding officer
5 assignment and specifically it could state, once again, if
6 I'm recalling correctly for precincts, Transit District and
7 police servicing areas. There is none of them and it's an
8 executive officer position.

9 Q. This guy, he's number two to the Joint Terrorism
10 Task Force?

11 A. Yes.

12 Q. Why do you say has lease no terrorism experience?

13 A. Because once again, through the personnel orders
14 I queried his whole history within the NYPD and he's never
15 had any assignment doing counter-terrorism or anything of
16 that nature.

17 Q. Why do you feel that's a problem?

18 A. Because he's being assigned as the number two,
19 the executive officer of the Joint Terrorism Task Force.
20 It's has been official for you to have expertise or
21 experience in the field that you are going to have the
22 responsibility of commanding.

23 Q. Do you know who promoted him to this position?

24 A. No, I do not.

25 Q. For the rest of the list because I think you list

M. VUCINAJ

1 all 103, had you applied for any of these positions? I
2 don't think, from your understanding, could you apply for
3 these positions to be a commanding officer of any of these
4 precincts?

5 A. The applicant -- the process is the executive
6 advancement process. It's supposed to be.

7 Q. Besides your allegations concerning the
8 promotional opportunities, are you alleging any other acts
9 of discrimination?

10 A. Sorry. Can you repeat that?

11 Q. Besides your allegations related to the
12 promotional opportunities, I think we've gone through
13 those, any other allegations of discrimination?

14 A. Well, promotion and assignment.

15 Q. Promotion is assignment.

16 A. Okay.

17 Q. Anything? I think you mentioned overtime?

18 A. Yes.

19 Q. What specifically are you alleging with regards
20 to overtime?

21 A. I'm afforded no opportunities for overtime.

22 Q. Where?

23 A. For the past two years since I've been in Transit
24 -- I can't say the past two -- excuse me. Since I got
25 assigned in June of 2017 from Transit District 30 to

M. VUCINAJ

1 Transit Bureau Brooklyn, which once again, was June 2017
2 and we're in July of 2019, I have not been provided an
3 opportunity to any overtime at all. You know, the normal
4 overtime.

5 Q. Does --

6 A. I don't have a department vehicle.

7 Q. Does your assignment -- do other people have
8 overtime?

9 A. Yes.

10 Q. What are those opportunities?

11 A. Not in my assignment.

12 Q. In your assignment are other people taking
13 overtime?

14 A. Oh, sergeants, yes. They do approximately 35,
15 40 hours a month. Know they do 30, 35, anywhere between 30
16 and 40 hours a month.

17 Q. Why do they get overtime?

18 A. It can vary. Doing coverage, for example, at the
19 rail control because it's a 24/7 operation. 24 hours a day
20 seven days a week. It's a face-to-face relief. There
21 always has to be someone there. Even if I'm going to be
22 there, they'll still send another sergeant from another
23 command to be there with me, even though I'm fully capable
24 of fulfilling the obligation.

25 Q. Why don't you have any overtime opportunities?

M. VUCINAJ

1 A. Because it's retaliation.

2 Q. Have you asked for overtime?

3 A. It's not something you ask for. It's something
4 that happens. It's something that occurs naturally because
5 the other thing, we're talking about retaliation.

6 Q. In your position right now, what would be the
7 opportunities for you to have overtime?

8 A. Assigned to details.

9 Q. Within the Transit Bureau?

10 A. Within the department period.

11 Q. Within the NPD?

12 A. Within the NPD.

13 Q. You are assigned to Transit right now?

14 A. Correct.

15 Q. Within Transit, what would be your areas or
16 overtime?

17 A. For example, Transit high alert. Duty captain.
18 Two years I haven't done it.

19 Q. How do they choose the duty captain?

20 A. Everybody one does it except me. For two years
21 now, I'm the only one.

22 Q. Who assigns the duty captain?

23 A. The Transit Bureau headquarters. They schedule
24 it.

25 Q. Have you asked to be assigned to duty captain?

M. VUCINAJ

- 1 A. Yes.
- 2 Q. What have they said?
- 3 A. No.
- 4 Q. Have they given you an explanation?
- 5 A. No.
- 6 Q. What does the duty captain do?
- 7 A. Well, we get to make a district here because it's
- 8 twofold. It's two parts.
- 9 Q. Explain it to me.
- 10 A. You have the Transit Bureau high alert duty
- 11 captain, which specifically has a responsibility to visit
- 12 Transit Districts, either within the specific borough or
- 13 boroughs Citywide where the commanding officer or, say, the
- 14 executive officer is not assigned to insure that everything
- 15 is running in proper fashion.
- 16 Q. Is that an NYPD officer who is assigned to that
- 17 role?
- 18 A. It's a captain.
- 19 Q. In the NYPD?
- 20 A. In the Transit Bureau. Within the Transit
- 21 Bureau. All the Transit Bureau captains have the duty and
- 22 responsibility to do multiple even during the week. They
- 23 can do three or four of them within a week. Sometimes they
- 24 do four or five of them.
- 25 Q. It's twofold. What is the other fold?

M. VUCINAJ

1 A. And the other one is every executive within the
2 NYPD has an obligation to do patrol duty. By the way, the
3 duty, the high alert duty captain also spans to Transit
4 incidents.

5 As I said earlier, someone jumps in front of a
6 train, we're going to respond and take over the command and
7 make sure everything is done properly and so forth and so
8 on.

9 Q. Every executive within the NYPD has a duty to do
10 patrol?

11 A. Patrol duty captain. Okay. And the patrol duty
12 captain is specific to a patrol. Now, when you are not
13 assigned to patrol duty services, such as myself being in
14 Transit Bureau, they give you two a month where you have
15 the responsibility to go to a specific borough and visit
16 the commands as well as respond to incidents, for example,
17 like a shooting or off-duty incident. We have the
18 responsibility to respond and you know, and investigate and
19 so forth.

20 Q. Have you done that?

21 A. It's been over two years since I've done that.

22 Q. Have you asked to do the patrol duty?

23 A. Yes.

24 Q. What was their response?

25 A. No.

M. VUCINAJ

1 Q. Did they say why?

2 A. No.

3 Q. Are you the only captain in your current
4 position?

5 A. Who is not doing it?

6 Q. No. Are you the only captain in your current,
7 forgive me, the Transit Bureau, where are you right now?

8 A. MTA Rail Control Center.

9 Q. Are you the only captain in the Transit Bureau
10 that is a liaison?

11 A. I'm the only one and the first one.

12 Q. Usually it's sergeants?

13 A. It's only sergeants.

14 Q. Do you feel that it's abnormal that you are there
15 as a captain?

16 A. Yes. It's completely out of the norm. It's
17 completely retaliatory.

18 Q. Do you think it could be an opportunity for you
19 to, like, supervise people or no? Why do you think you
20 were sent there.

21 A. One, retaliation. Simple retaliation. Two, to
22 basically prevent me from continuing to report the criminal
23 conduct of members of the executive cops of the NYPD.

24 Q. Don't you still have access to those reports, the
25 OMNI, what's it called?

M. VUCINAJ

1 A. The OMNIFORM database, no.

2 Q. Why not?

3 A. I got a call from Chief Coogan in December 2018
4 telling me that IAB has revoked my access to those
5 databases. Specifically, the OMNIFORM database and the
6 ECMS which is the Enterprise Case Management System.
7 Vincent Coogan, he's the executive officer of the Transit
8 Bureau. He's a one star chief. No, excuse me, he's a
9 two-star chief. He's assistant chief.

10 Q. You mentioned being a whistle-blower. What are
11 you specifically alleging?

12 A. I thought we went through that.

13 Q. We did but put it in a nice, concrete summary for
14 me.

15 A. I don't want to be redundant. I'm not trying to
16 be disrespectful in the least bit. Basically there's
17 criminal activity being conducted and allowed by the
18 executive members of the NYPD as well as the Police
19 Commissioner as well as the Mayor. And it's, in part, the
20 falsification of criminal complaint reports or the failure
21 of the reporting criminal, you know incidents, in addition
22 to the theft and the abuse of overtime.

23 Q. And then you are -- for making those complaints,
24 you are being retaliated against; is that correct?

25 A. Yes.

M. VUCINAJ

1 Q. Have you received any response from your transfer
2 application, like any acknowledgement?

3 A. So I haven't had a chance to actually see it. I
4 sent it to Inspector Bastendenbeck, to Chief Delatorre who
5 is the -- who is the Chief of Transit Bureau. He's a
6 three-star chief. I sent it to Chief Coogan.

7 Q. Have you talked to Chief Delatorre?

8 A. No, I have not. I haven't met him since his
9 assignment. Neither did I meet Chief Fox since my
10 assignments to the Transit Bureau.

11 Q. Do you believe your assignment to the Transit
12 Bureau had anything to do with your taking leave?

13 A. No.

14 MS. BLAIR: So I remembered my question
15 finally.

16 Q. You had mentioned the command discipline would
17 keep you from transferring. Why is that?

18 A. No. The charges and specifications.

19 Q. Yes, you are right. Why is that?

20 A. For example, I was citing earlier in the order.
21 I have asked during my assignment multiple times to go to
22 Internal Bureau. As of late they have posted assignments.
23 They said as of late, if you have charges and
24 specifications you are denied.

25 Q. Is that IAB?

M. VUCINAJ

1 A. IAB specifically. But with that said, that does
2 put a hold on you having any opportunity of, you know,
3 movement. You are basically in limbo.

4 Q. At least to IAB that you know of; is that
5 correct?

6 A. Definitely to IAB, and the department as a whole.

7 Q. That you know of?

8 A. You know, at least to IAB.

9 Q. Because it's been publicly posted?

10 A. Yes. In a department memo.

11 Q. What would happen? Could you just appear for the
12 duty captain position?

13 A. No. Definitely not.

14 Q. For the patrol duty captain position?

15 A. No.

16 Q. You have to be assigned?

17 A. Yes.

18 Q. And then you get overtime hours?

19 A. Yes.

20 Q. Are there any other ways you can get overtime
21 hours in your position as a Transit liaison?

22 A. Yes. You can be assigned to a detail on your day
23 off.

24 Q. Have you asked to be assigned to detail?

25 A. I've spoken to my union about it, a hundred

M. VUCINAJ

1 percent.

2 Q. Have you talked to someone at the NYPD?

3 A. He is NYPD. He's actually a captain in the NYPD.

4 Q. Does the union have any authority to actually
5 assign you to a detail?

6 A. They don't have the authority. They are the
7 liaison. They are the go-between.

8 Q. Have you talked to anyone in the NYPD you want to
9 work a detail on your day off?

10 A. Specifically to that, no.

11 Q. Is there anything else that you are alleging with
12 regards to your claims of discrimination, retaliation and
13 harassment?

14 A. In what sense?

15 Q. That you can think of --

16 A. I don't want to be redundant.

17 Q. -- that we didn't talk about, that you would like
18 on the record, that are part of your allegations?

19 A. No. Not at this time.

20 MS. BLAIR: Ten minutes and then I think
21 we're done. I'm going to go through damages.

22 Q. Do you receive a pension?

23 A. Do I receive a pension, no, I do not.

24 Q. Are you part of the pension fund?

25 A. Yes, I am.

M. VUCINAJ

1 Q. Besides the 14 months' leave of absence and how
2 long was your second leave of absence when you filed for
3 the second --

4 A. Can I mention one thing. With the Duty Captain
5 Patrol Services Bureau they put out a memo a few years ago
6 where after you do your duties that are assigned to you,
7 you can request a third one to do. And obviously because
8 I'm not doing not two, not even one, I can't get a third
9 where I can do overtime.

10 Q. Understood. Your leave of absence from the NYPD
11 was 15 months?

12 A. 15 and a half months, yes.

13 Q. When you did your retirement and the second one,
14 how long were you gone for?

15 A. About four and a half months.

16 Q. Any other leaves?

17 A. No. 25 plus years, no sick.

18 Q. Describe any financial expenses or losses that
19 you've incurred as a result of this lawsuit.

20 A. Well, simply failing to get promotion, that's
21 just about, on average, for each promotion is \$10,000
22 additional. Loss of any possibility of overtime.
23 Contributions to my pension because I do what we call an
24 increase take home pay 50/50 where you contribute extra.
25 Whatever I contribute, you get added eight and a half

M. VUCINAJ

1 percent and that's added to the overall pension.

2 Q. Anything else?

3 A. Also as far as the retaliation, my commute.

4 Q. Okay.

5 A. I also forgot to mention, it's in my complaint,
6 my commute.

7 Q. You mentioned it's 40-plus minutes?

8 A. No. That was in 2016 into '17 when I was at
9 Transit District 30. Being at Transit Bureau, it's
10 30 minutes away. I doubled that on the west side of
11 Manhattan, coming from Queens.

12 Q. That's since when?

13 A. That's been since.

14 Q. July 2017?

15 A. Well, they told me on the 25th but I didn't go
16 until, like, that following Monday. End of July 2018.

17 Q. So the commute is an hour; is that what you are
18 saying, everything?

19 A. At least.

20 Q. We're going to go through your positions at the
21 NYPD. I just want to ask, you first became a captain when
22 you went to squad commander; is that correct in 2007?

23 A. I'm sorry.

24 Q. When did you become a captain?

25 A. December 23, 2009.

M. VUCINAJ

1 Q. 2009. After you came back from France and you
2 were the squad commander in the Special Frauds Unit?

3 A. Correct.

4 Q. And those promotions are all based on the civil
5 service test; is that correct?

6 A. Correct. Up until the range of captain.

7 Q. You were captain at the 43 precinct January 2010?

8 A. Yes.

9 Q. When you were at the 42 precinct did you ask to
10 be promoted to deputy inspector or any other position?

11 A. Well, as I told you, the conversation with
12 Inspector Harrington, he asked me would I like to have a
13 command. I told him, I'm definitely interested in that
14 prospect. I believe that's verbatim what I told him.
15 That's when he replied, you have to start playing the game.

16 Q. Harrington, you had said he could have influence
17 because of who he was in the NYPD?

18 A. And his rank.

19 Q. He wouldn't be responsible for directing you to
20 the Police Commissioner?

21 A. I don't think so. Once again I'm not -- there's
22 no formal process.

23 Q. You left the 42 precinct. At the precinct did
24 you tell anyone that you wanted to be promoted?

25 A. Well, that was the time when I got called in by

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1 then Deputy Chief Boyce, who is the commanding officer for
2 the detectives in the Bronx, the Detective Borough Bronx
3 and that's when he told me it's not happening.

4 Q. Because of Gomez?

5 A. Gomez told him.

6 Q. Then you went to the Personnel Bureau, the 44
7 precinct. You were an executive officer in 2012. Did you
8 tell anyone you wanted to be promoted?

9 A. When was this?

10 Q. This is end of July 2012. You were there from, I
11 think, May 2012 to --

12 A. At that point that's when I knew -- that's when I
13 knew my fate. No, I did not.

14 Q. What does that mean?

15 A. I had no chance of having an opportunity for
16 promotion.

17 Q. Subsequent to that, did you still try to get
18 promotion? Would you tell people with each new precinct
19 and assignment that you wanted to be promoted?

20 A. I didn't tell people.

21 Q. I mean, let it be known that you wanted to get
22 promoted?

23 A. In general?

24 Q. Yes.

25 A. I always had aspiration. I've also been an

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1 ambitious individual and wanted to be promoted. That's the
2 idea of taking the promotion exams.

3 Q. We're looking at 2012 up to 2019. In that
4 seven-year gap, did you specifically have any conversations
5 with anyone that you wanted to be promoted?

6 A. It wasn't specific that I wanted to be promoted.
7 It's specific the way I won't get promoted. The opposite.
8 I'm not trying to confuse you. Because of retaliation.
9 Because of me reporting --

10 Q. You didn't talk to anyone about your wanting to
11 be promoted because you felt that you wouldn't get promoted
12 based on your past history?

13 A. Correct.

14 MS. BLAIR: Back to the damages. I just
15 wanted to clarify.

16 Q. Did you sustain any mental or emotional injuries
17 as a result of the events alleged in this lawsuit?

18 A. I don't want to say injuries but emotional
19 stress.

20 Q. Why?

21 A. Can you imagine coming into work every day and
22 everyone is basically treating you with contempt and
23 disdain and marginalizing you and relegating you, despite
24 your accomplishments and your capabilities and
25 qualifications and experience?

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1 Q. Why do you think your subordinates treated you
2 that way?

3 A. It's not what I think. It's what I know. I've
4 written them up actually being insubordinate and
5 discourteous and no action being taken by anyone.

6 Q. Why did they behave that way?

7 A. Because they got countenance by the executives.
8 Nothing will happen without the countenance of the
9 executives of the NYPD.

10 Q. Did you see your subordinates talking to any of
11 the executives?

12 For example, the commanding officer at the
13 precinct or anyone at the borough in Brooklyn South or in
14 the Bronx? Like, how do you know that they were talking to
15 the executives?

16 A. That's what they do. I mean, I remember one
17 example, it actually happened right in front of me. I'm in
18 the 42 precinct. This is back when I got my -- if you want
19 to call it leave, let's say, and I'm in the office at my
20 desk and then Captain Steven Ortiz is at his desk, which is
21 literally, I mean, at arm's length. And two of his former
22 colleagues from the 48 precinct are in the office as well.
23 And they are talking and they are whispering. Then they
24 look at me and start laughing. Okay. And if you want to
25 talk about do I know that, that message board says a lot.

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1 It says a lot.

2 Q. Is the message board responsible for you not
3 being promoted?

4 A. I'm not going to say it's responsible for me not
5 getting promoted but I definitely can say it contributed to
6 for making me as something that I'm not.

7 Q. Did you seek any counseling or treatment or
8 therapy because of the allegations in your complaint?

9 A. No.

10 Q. You mentioned your earning capacity being
11 affected by the events. Anything besides additional salary
12 opportunities for overtime and contributions to your
13 pension?

14 A. And just, in general, the rank itself being
15 promoted. As I said, each rank is approximately about ten
16 grand, for argument sake, so \$10,000 for each rank that you
17 get promoted into.

18 I mean, even after retiring your rank makes a
19 difference on your resume. That can have an impact if I'm
20 looking for a second career.

21 Q. Are you planning on retiring in the next five
22 years?

23 A. Ideally, yes.

24 Q. What do you think you'll go into next?

25 A. I don't have any idea.

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1 Q. Has your life been affected in any way, other as
2 a result of the allegations you are claiming, besides the
3 ones you already mentioned? Family relationships?

4 A. Medical. I want to put it out there. In, I
5 believe it was December 2015 -- no, I am sorry. It was in,
6 I believe, September or October 2016 where I had, one, I
7 believe it was an eight-millimeter pre-cancerous polyp
8 removed from my colon.

9 Q. Are you alleging the pre-cancerous polyp was
10 related to the stress from your job?

11 A. Potentially. Potentially.

12 Q. What are other damages you are claiming that we
13 have not discussed?

14 A. Well, as I stated in between talking, a vast
15 majority of the executives, they have what we call a
16 Category 1 car, which is basically a car that you can use
17 for commuting to and from work. While I assigned to
18 Transit District 30 I was the executive officer, I had one
19 assigned. And as a result of me being transferred two
20 subsequent times unofficially, I had no access to such a
21 vehicle. It's one of the privileges, so to speak.

22 Q. Do you have any idea how long you would be
23 assigned to the Transit liaison unit?

24 A. Your guess is as good as mine.

25 Q. What are you looking for from the NYPD?

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1 A. Get my promotion that I duly deserve.

2 Q. Promotion to deputy inspector?

3 A. No. Ten years of rank inspector.

4 Q. What would that be?

5 A. That's inspector. There's deputy inspector,
6 inspector. That's two promotions.

7 Q. You want to be inspector?

8 A. Yes. And I'm just going through, looking at
9 other promotions in the patterns of the timeline of how
10 individuals actually have been getting promoted. As noted
11 here, in the early one there's been people that got three
12 promotions within five years.

13 Q. Do you think personality factors into their
14 promotions?

15 A. Yes.

16 Q. And is that discrimination, if someone is more
17 liked than someone else?

18 A. Depends.

19 Q. Depends on what?

20 A. What do they mean the like or dislike for.

21 Q. Their personality. Some people are just more
22 likeable, more affable.

23 MR. ALBANESE: Stop talking about me like
24 that.

25 THE WITNESS: You know, in my school I was

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1 most popular in my senior year.

2 MS. BLAIR: There we go.

3 A. We want to talk about personality?

4 Q. Yes?

5 A. Once again, I should probably ask you to clarify
6 personality to work ethics. We can't mix the two because
7 they are not the same.

8 Q. Do you believe you have a strong work ethic?

9 A. Exceptional one. As I stated earlier, over 25
10 years I've never taken a sick day.

11 MS. BLAIR: We're done for the day.

12 Q. Did you understand all of my questions?

13 A. I believe so, yes.

14 Q. Were your answers honest, complete and truthful
15 to the best of your ability?

16 A. Upon information and belief, yes.

17 Q. Is there anything else you would like to add?

18 A. Not at this moment.

19 MS. BLAIR: Thank you for your time.

20 (Whereupon, at 1:07 p.m., the Examination of
21 this witness was concluded.)

22

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M. VUCINAJ

D E C L A R A T I O N

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I hereby certify that having been first duly
sworn to testify to the truth, I gave the above testimony.

I FURTHER CERTIFY that the foregoing transcript
is a true and correct transcript of the testimony given by
me at the time and place specified hereinbefore.

MARASH VUCINAJ

Subscribed and sworn to before me
this ____ day of _____ 20__.

NOTARY PUBLIC

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